

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





**ORIGINAL 75-1331**

B  
P/S

In The  
**United States Court of Appeals**  
For The Second Circuit  
**No. 75-1331**

UNITED STATES OF AMERICA,

*Plaintiff-Appellee,*

vs.

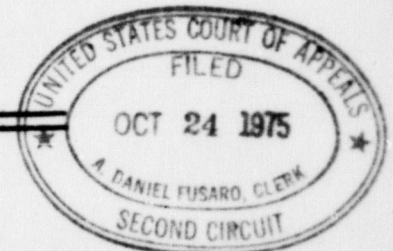
RONALD GIGLIOTTI,

*Defendant-Appellant.*

*On Appeal from the United States District Court for the Eastern  
District of New York*

**APPENDIX FOR DEFENDANT-APPELLANT**  
Volume 1, pp. 1 - 215

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DOCKET ENTRIES

THE UNITED STATES     )  
                              )  
                  vs.       )  
                              )  
CIRO R. RICCARDI        )  
RONALD GIGLIOTTI        )

Proceedings

6- 6-73           Before JUDD, J. - Indictment filed - ordered  
                  sealed by the Court. Bench Warrants ordered  
                  for defts.

6- 7-73           Bench Warrants issued as to two defts.

6- 8-73           Before COSTANTINO, J. - Case called - sealed  
                  indictment ordered opened by the Court - deft.  
                  Gigliotti arraigned and the Court enters a  
                  plea of not guilty on his behalf - deft. in  
                  custody pending bail application.

6- 8-73           Before CATOGGIO, Mag. - Defts. and counsel  
                  Albert Aronne present - defts entered a plea  
                  of not guilty - reading of indictment waived  
                  by defts. - bail set at \$10,000 - 10% cash for  
                  deft. Riccardi and \$2,500 P.R.B. for deft.  
                  Gigliotti.

                  Notice of Appearance filed (for deft. Gigliotti -  
                  Albert Aronne.

7-26-73           Magistrate's filed 73 M 855 inserted into  
                  CR file.

7-26-73           Notice of Motion filed (ret. Aug. 7, 1973),  
                  with Memorandum of Law for Bill of Particulars



Discovery and directing the Govt. to produce and deliver to the defts. all evidence favorable to them, etc. (Both defts.)

8- 7-73 Before COSTANTINO, J. - Defts & counsels present - motion for Discovery and Inspection argued - stipulation agreed to and entered into the record.

8-28-73 Bill of Particulars filed.

10- 2-73 Before COSTANTINO, J. - Case called - defts. & atty. present - defts. waived 6 month rule - set down for Jan. 21, 1974.

1-15-74 Notice of readiness for trial filed.

2-25-74 Before COSTANTINO, J. - Case called - defts and counsels not present - case adjd. to 3-29-74 for report.

3-29-74 Before COSTANTINO, J. - Case called - Defts. and counsels present - adjd. to 6-(illegible) for trial.

5-24-74 Before PLATT, J. - Case called - adjd. to 6-14-74 at 10:00 A.M.

6-14-74 Before PLATT, J. - Case called - defts and counsel present - hearing adjd. to 7-12-74 at 3:00 P.M. - set down for trial on 8-26-74 at 10:00 A.M.

7-12-74 Govts. Memorandum of Law filed.

7-12-74 Before PLATT, J. - Case called - adjd. to July 26, 1974 at 3:00 P.M.

7-26-74 Before PLATT, J. - Case called - motion withdrawn.

8-26-74 Before PLATT, J. - Case called for trial - adjd. to 10/15/74.

10-15-74 Before PLATT, J. - Case called - ready and passed.

3-10-75 Before PLATT, J. - Case called - adjd. to 3-31-75 at 10:00 A.M. (for trial).

3-31-75 Before PLATT, J. - Case called - Cert. of Engagement issued to James La Rossa and Gustave Newman - adjd. to May 20, 1975.

By PLATT, J. - Memorandum filed denying defts. motion to dismiss.

5-19-75 Before PLATT, J. - Case called - trial ordered and BEGUN - Jurors selected and sworn - trial cont'd to May 20, 1975.

5-20-75 Before PLATT, J. - Case called - trial resumed - trial con'd to May 21, 1975.

5-21-75 Before PLATT, J. - Case called - trial resumed - trial cont'd to May 22, 1975.

5-22-75 Before PLATT, J. - Case called - trial resumed - trial cont'd to May 27, 1975.

5-27-75 Before PLATT, J. - Case called - defts and counsel present - trial resumed - deft. Riccardi's motion for judgment of acquittal on counts 1 and 2 motion denied - deft. Gigliott's motion to dismiss count 1 - decision reserved - deft's motion to dismiss count 2 motion denied - trial cont'd to 5/28/75.

5-28-75 Before PLATT, J.-Case called - trial resumed - Jury retires to deliberate - trial cont'd to May 29, 1975.

5-28-75 By PLATT, J. - Order of sustenance filed (14 persons - luncheon).

5-29-75 Before PLATT, J. - Case called - defts. present with counsels - trial resumed - Jury returns



with a verdict of guilty on Count 2 as to both defts. - deft. Gigliotti moves to dismiss count 2 - decision reserved - Jury discharged - bail cont'd. as to deft. Riccardi - deft Gigliotti's bail increased to \$10,000, 10% cash - trial concluded.

- 6- 2-75 Stenographers Transcripts dated 5/20/75(2), 5/21/75, 5/22/75 and 5/27/75 filed.
- 6- 4-75 By CATOGGIO, Magistrate - Order for acceptance of cash bail filed (GIGLIOTTI).
- 7-18-75 Before PLATT, J. - Case called - sentence adjd. to 8-19-75. (RICCARDI) and GIGLIOTTI.
- 8-29-75 Before PLATT, J. - Case called - defts and counsel present - deft GIGLIOTTI sentenced for a period of 8 years pursuant to T-18, U.S.C. Sec. 4208(a)(2) and fined \$10,000.00 - Bail cont'd pending appeal - execution of payment of fine stayed to 9/12/75--deft. RICCARDI sentence for a period of 20 years - i.e., the maximum fixed by statute, and for a psychiatric study as described in T-18, U.S.C. Sec. 4208(c), the results of such study to be furnished this Court within 3 months, unless Court grants further time not to exceed 3 months, whereupon the deft. shall be returned to this Court and to sentence of imprisonment shall be subject to modification pursuant to T-18, U.S.C., Sec. 4208(b) - bail cont'd pending appeal.
- 8-29-75 Judgment and Commitment filed - certified copies to Marshal (Both Defts.)
- 8-29-75 Notice of Appeal filed (for R. Gigliotti).
- 8-29-75 Copy of Notice of Appeal and duplicate of the docket sheets mailed to the C. of A.
- 8-29-75 Notice of Appeal filed (C. Riccardi).
- 8-29-75 Copy of Notice of Appeal and duplicate of the



docket sheets mailed to the C. of A.

9- 5-75	Record on appeal certified and handed to J. Gill for delivery to the Court of Appeals.
9-16-75	Acknowledgment received from court of appeals for receipt of record.
9-16-75	Certified copy of docketing order received from court of appeals and filed.
9-16-75	Stenographers transcript filed dated 8-29-75.
9-17-75	Stenographers transcript filed dated 8-29-75

A TRUE COPY

/s/ LEWIS ORGEL, CLERK

BY: DEPUTY CLERK

INDICTMENT

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA,

v.

73 CR 556

CIRO R. RICCARDI and RONALD  
GIGLIOTTI,

Defendants.

-----X

COUNT ONE

The Grand Jury charges: That on or about between May 1, 1971 and May 18, 1972, both dates being approximate and inclusive within the Eastern District of New York, the defendant Ciro R. Riccardi knowingly did make extortionate extensions of credit to Frank DiPalma in the total amount of approximately \$3,500, Ciro R. Riccardi and Frank DiPalma understanding at the time of said extension of credit was made, that delay in making and failure to make repayment of the same could result in the use of violence and other criminal means to cause harm to the person of Frank DiPalma.

(Title 18, United States Code, Section 892).

COUNT TWO

The Grand Jury charges: That on or about and



between May 1, 1971 and May 18, 1972, both dates being approximate and inclusive within the Eastern District of New York, the defendants Ciro R. Riccardi and Ronald Gigliotti knowingly used extortionate means within the meaning of Section 891(7) of Title 18, United States Code, to attempt to collect and to collect from Frank DiPalma, a debtor, an extension of credit, to wit; the defendant Ciro R. Riccardi and Ronald Gigliotti used violence and expressly and implicitly threatened the use of violence and other criminal means to cause harm to the person of the said debtor.

(Title 18, United States Code, Section 894).

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FOREMAN

---

UNITED STATES ATTORNEY

1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK

4 UNITED STATES OF AMERICA

5 -against-

6 ZERO

3500-9  
Criminal Folder Number

723242

7  
8 225 Cadman Plaza East  
9 Brooklyn, New York

10 May 22, 1972

11  
12  
13 GRAND JURY MINUTES

14 PRESENTED BY:

15 WILLIAM T. MURPHY, ESQ.,  
16 Special Attorney  
17 Department of Justice

18  
19 REPORTED BY:

20 BRIAN A. FEINGOLD

21  
22  
23 WITNESS:

24 FRANK DiPALMA  
25



1  
2 F R A N K D i P A L M A, having assumed his seat as  
3 a witness, testified as follows:

4 EXAMINATION BY

5 MR. MURPHY:

6 Q What is your name?

7 A Frank DiPalma.

8 Q Mr. DiPalma, you've told the FBI that you are a  
9 victim of a loan shark known to you only as Zero. Is that  
10 correct?

11 A Yes.

12 Q Did you also give the FBI a statement as to some  
13 of the -- Well, not some, but the essential transactions that  
14 you had with Zero?

15 A Yes.

16 Q Does the statement contain each and every incident?

17 A Yes.

18 Q In full detail?

19 A Yes.

20 Q Or does it identify all the people who might know  
21 some information about your relationship with Zero?

22 A Yes.

23 Q Does it identify everybody that you spoke to us  
24 about in the office ten minutes ago?

25 A Yes.

1  
2 Q Does it identify Patsy, in other words?

3 A Excuse me?

4 Q The fellow that introduced you.

5 A Can you rephrase that? You mean, is it involved with  
6 Zero?

7 Q No. I am asking you whether you told the FBI  
8 the name of everybody?

9 A I did not tell the FBI names until I came to your  
10 office and mentioned names.

11 Q When you gave the statement, it was the outline  
12 of the essential transactions that you had with Zero?

13 A Yes.

14 Q Do you understand what I am asking?

15 A Yes.

16 Q Take a look at these three typewritten pages.  
17 Look at the initials at the bottom.

18 A Yes?

19 Q Are they your initials?

20 A They are.

21 Q On all three pages, now. At the bottom of the  
22 three pages there is some handwriting. Did you write that in?

23 A Yes, I did.

24 Q Would you read the entire three pages out loud  
25 and tell us when you go from page to page.



1  
2 A "I, Frank DiPalma, make the following voluntary  
3 statements to Arthur H. Ruffels, who has identified  
4 himself to me as a special agent of the Federal  
5 Bureau of Investigation.  
6 Special Agent Ruffels advised me that he wishes  
7 to talk to me in connection with an extortionate  
8 credit transaction. Approximately one year ago,  
9 May of 1971, I borrowed \$1,000 from an individual  
10 known to me as Zero. I learned about Zero from a  
11 co-worker of miney who I wish not to identify at this  
12 time. My co-worker took me in his car to a luncheonette  
13 located near the corner of Avenue X and East Third Street,  
14 Brooklyn, across from the -- from a Chinese Restaurant.  
15 We parked in the front of the luncheonette and were  
16 joined by Zero, who is described as a white male, 5-8  
17 or 5-9 tall; 165 to 175 pounds, very muscular; 26 years  
18 old; hair black; eyes brown; dressed casually. I asked  
19 him if I could borrow a thousand dollars and how much  
20 it would cost. Zero said it would cost you \$50 per week,  
21 but this is not a payment on the principal, but only a  
22 vig. I said I never heard of that before and Zero said,  
23 "Come and see me Friday."

24 I met Zero that Friday and he gave me a thousand  
25 dollars in cash. We agreed that I would pay back \$50

every week at this time -- at this same location,  
FRidays at 3:00 P.M.

"If you don't see me here, come over to  
work performance on McDonald Avenue, between  
X and W."

This place was a motorcycle dealership and  
repair shop which Zero said he owned, but has since  
sold. I made \$50 payments faithfully for approximately  
two months, when I borrowed \$1500 more. The new  
arrangement was that I would pay back \$125 per week  
vig."

That's Page 1.

Q That's Page 1?

A Yes. Now, Page 2.

"I continued the \$125 payments for another two or  
three months when I borrowed a thousand dollars more,  
making the total principal \$3500. The agreement to  
pay back the vig was \$175 per week, which I continued  
making until November or December of 1971. At that time  
I explained to Zero that I could not pay \$175 per week.  
This meeting took place in the office of Work Performance  
Shop. Present at this meeting were two other individuals  
Zero identified as his partners of his. One described as  
heavy-set, Jewish looking in the mid-twenties, approximately



1  
2 5-5 in height, 210 pounds, black hair and having a  
3 pockmark on his right cheek. Second, six feet tall;  
4 240 pounds; Jewish-looking; brown hair, was dressed in  
5 a business suit and in his late twenties. Zero  
6 said to me, "You have to pay 100 a week and maybe we  
7 ought to get a gun and put a bullet in your head."  
8 The tall individual said, "We didn't come to you,  
9 you came to us. You have to pay."

10 "During the conversation Zero made several threats  
11 to physically harm me, such as to break my arms and  
12 legs. I continued to make \$100 payments until January  
13 or February of this year when I again approached Zero  
14 and told him that I couldn't afford to pay \$100 a week  
15 any more. Zero replied, "I'm going to give you a  
16 break. You are now going to pay me \$4800 loan at  
17 \$50 a week."

18 "Present at this meeting were the same two  
19 individuals who Zero had identified previously as his  
20 partners. I continued making \$50 payments until the  
21 present. On some of those occasions I was unable to  
22 meet the Friday afternoon deadline and would have to  
23 make up stories for two or three days, daily. On  
24 numerous occasions Zero threatened to physically harm  
25 me unless I had the money."

That's the end --

Q Are you going to Page 3?

A Page 3.

"On Monday, May 15, 1971, at approximately 6:00 P.M. Zero was parked on the corner of 85th Street, alongside the cemetery, obviously waiting for me. With him in a 1972 greenish blue Mercury Marquis was another individual who was described as a white male, approximately forty years of age, Jewish looking with light brown hair, with receding hairline, dressed in a sports shirt and brown pants. I parked my car, walked over to Zero. He said to me, 'I'm going to put you in a hospital where no hospital bill will ever pay the damages. I am going to do to you.' On Tuesday I went to the same luncheonette described earlier and met with Zero again. Zero said, "For every thousand dollars you give me I'm going to knock off \$400 from the principal."

" I left him with the understanding that I would return on Wednesday between 2:00 P.M. to 3:00 P.M. with a thousand dollars cash. I did not keep that meeting and that night Zero came with some of his friends --came to my house, but rang the wrong bell. I did not make an attempt to talk with him and he finally left."



1  
2 That's the bottom with my writing.

3 Q Would you read your writing, please?

4 A "I was born 10-22-37, completed seven years of  
5 school. I have read the above statement considering --  
6 consisting of this and two additional typewritten pages. I  
7 have initialled each page and now sign it because it is true.  
8 Witnessed --"

9 Q After that, is your signature?

10 A After that is my signature, and after that is "Witness,  
11 R. H. Ruffels, Special Agent, FBI, New York, New York."

12 Q When you wrote that entire statement, was it  
13 true?

14 A Yes, it was.

15 Q Is it still true?

16 A Yes, it is.

17 Q This morning in my office you spoke to Special  
18 Agent Ruffels, Special Agent Boland of the FBI again,  
19 didn't you?

20 A Yes.

21 Q And you talked about your transactions with Zero  
22 in a little more detail, didn't you?

23 A Yes, I did.

24 Q I asked you some questions, didn't I?

25 A Yes.

Q And we talked about some places that you might have gone to try to straighten out your loan?

A Yes.

Q And other people who might have known about it?

A Right, yes.

Q But what you said today, either here in the grand jury or in my office, does it alter in any way what you said in your original statement to the FBI:

A What do you mean by that?

Q Does it change it?

A No, it does not change it.

MR. MURPHY: I have no further questions of the witness: I asked that the subpoena be adjourned.

THE FORELADY: And that you will be reappearing again when notified.

THE WITNESS: Yes, I will.

THE FORELADY: Thank you very much.

MR. MURPHY: May I have this marked as Exhibit No. 1 in this case?

THE FORELADY: Yes.

(Whereupon, the aforementioned document was received and marked Grand Jury Exhibit 1 in evidence as of this date by the reporter)

THE FORELADY: You are excused.



THE WITNESS: Thank you.

(The witness was excused and withdrew)

oOo

3500-  
70

1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK

4 -----x

5 UNITED STATES OF AMERICA :

6 -against- :

Criminal Folder

7 "ZERO" a/k/a JOHN DOE :

#723,242

8 -----x

9  
10 225 Cadman Plaza East  
11 Brooklyn, New York

12 June 13, 1972

13  
14  
15 GRAND JURY MINUTES

16  
17 Presented by: WILLIAM T. MURPHY, ESQ.,  
18 Special Attorney,  
Department of Justice

19 Reported by: Maureen McCaffery

20  
21  
22 Witness:

23 FRANK D1PALMA  
24  
25



1  
2 F R A N K D I P A L M A, after having been  
3 duly sworn, assumed his seat as a witness and  
4 testified as follows:

5 EXAMINATION BY

6 MR. MURPHY:

7 Q Would you tell us your name and address, sir?

8 A My name is Frank DiPalma. I live at 1670,  
9 85th Street in Brooklyn.

10 Q Will you tell us where you work?

11 A I work for the New York City Transit Authority.

12 Q Would you tell us what your home telephone  
13 number is?

14 A My home telephone number is 331-1219.

15 Q I want you to go back in your mind about  
16 a year ago. Did there come a time in May of 1971  
17 when you had to borrow some money quickly?

18 A Yes.

19 Q Because of the situation at that time,  
20 did you come to know a person known to you only as  
21 Zero?

22 A Yes.

23 Q Were you introduced to him by a man who  
24 worked with you named Patty?

25 A Yes.

1  
2 Q What is Patty's last name?

3 A Patty McCabe.

4 Q Do you know whether Patty McCabe has ever  
5 been involved in any kind of sports activity as far  
6 as you know?

7 A No, I don't know. I can't answer. I don't  
8 know. I don't know if he was or wasn't involved in  
9 sports activity.

10 Q Wasn't he a boxer at one time?

11 A I'm sorry. Yes, he was a boxer.

12 Q I think you told us he fought Willie Pep  
13 at one time?

14 A Yes, he fought Willie Pep.

15 Q Did you come to have a meeting with this  
16 man named Zero in May of 1971?

17 A Yes, I did.

18 Q Did that first meeting occur at a luncheonette  
19 near the corner of Avenue X and East Third Avenue  
20 here in Brooklyn?

21 A Yes.

22 Q It was near a Chinese restaurant?

23 A Yes.

24 Q I'm going to show you a photograph of  
25 yourself and another man. Can you tell us if you have



1  
2 ever seen the other man before?

3 A Yes.

4 Q Who is it?

5 A That's Zero.

6 Q Would you take this red pencil and put a  
7 circle around Zero's head. Put your initials right  
8 beside it.

9 MR. MURPHY: Mr. Foreman,  
10 is today the 13th of June?

11 MR. FOREMAN: Yes.

12 Q Will you put 6/13/72 right beside it.  
13 (Witness marking document.)

14 MR. MURPHY: Could I have  
15 this marked as Exhibit No. 1.

16 (Whereupon, the abovementioned  
17 document was marked as Grand Jury  
18 Exhibit No. 1.)

19 Q On that occasion of that first meeting,  
20 as best you can remember right now, did you actually  
21 make an arrangement to borrow money?

22 A Yes, I did.

23 Q How much did you intend to borrow?

24 A \$1,000.

25 Q What were the terms of the repayment of

1  
2 that money?

3 A \$50.00 a week vig.

4 Q What did you understand vig. to mean at  
5 that time?

6 A At that time I never heard of a vig.

7 Q Was the phrase vig. explained to you  
8 by Zero?

9 A Yes, it was explained to me by Zero.

10 Q What did he tell you it meant?

11 A It meant that you give him \$50.00 a week and  
12 it doesn't come off the principal, it stays, unless  
13 you have the \$1,050.

14 Q That's the only way you could pay back  
15 the whole loan, with the entire \$1,000?

16 A Yes. The entire 1,050 or \$50.00 a week.

17 Q Can you tell us at what time you were  
18 supposed to make those \$50.00 payments?

19 A I used to make them, I had to make them every  
20 Friday.

21 Q Where did you have to make them?

22 A At the luncheonette or his Work Performance  
23 Cycle Shop.

24 Q Did you ever see Zero at Work Performance  
25 Cycle Shop?



1  
2 A Yes, I did.

3 Q After you make the loan, did you get  
4 the money the same day?

5 A No, I did not.

6 Q When did you get it?

7 A I got it on a Friday.

8 Q After you got the money, did you make  
9 any \$50.00 payments to him?

10 A Yes, I did.

11 Q For how long a period of time did you  
12 make those payments?

13 A For about two and a half months.

14 Q That's an approximate length of time?

15 A Approximate length of time.

16 Q After you had made those payments for  
17 approximately two and a half months, did you have to  
18 borrow more money from him?

19 A Yes, I did.

20 Q How much more did you borrow from him?

21 A \$1,500.

22 Q So that made the total loan \$2,500?

23 A Right.

24 Q How much vig. did you have to pay on the  
25 total loan at that point?

1  
2 A A hundred and a quarter.

3 Q How long did you pay the \$125.00 a week vig.?

4 A For about three months, two and a half to three  
5 months, around that.

6 Q At that time, did you come to borrow  
7 some more money from him?

8 A Yes, I did.

9 Q How much more?

10 A \$1,000.

11 Q That raised your total principal to  
12 \$3,500?

13 A Right, yes, \$3,500.

14 Q You were paying \$175.00 a week vig. at  
15 that point?

16 A Yes.

17 Q Can you tell us when you stopped paying  
18 the \$175.00 a week vig.?

19 A I stopped paying that around somewheres around  
20 near November, near December, near the end of November  
21 to the beginning of December.

22 Q At that time, did you have a meeting  
23 with Zero at this Cycle Performance Work Shop?

24 A Yes, I did.

25 Q Could you tell us the address of that as



1  
2 best you can remember?

3 A It's inbetween Avenue X and Y on McDonald  
4 Avenue in Brooklyn.

5 Q Was anybody else at that meeting?

6 A Yes, two of his partners.

7 Q His partners in what business?

8 A Shylocking.

9 Q What was said to you at that meeting and  
10 what did you say in return and tell us who said  
11 what to you.

12 A Well, I told Zero that I couldn't pay \$175.00 a  
13 week any more and he turned around and said to me  
14 that that was the bargain that we made together,  
15 that I had to pay the 175. I explained to him I  
16 didn't have it any more and he said to me that he's  
17 going to give me some kind of a different arrangement.  
18 I had to pay him, at the time, \$100.00 a week instead  
19 of -- \$100.00 a week instead of \$175.00 vig.

20 Q How long were you going to have to pay  
21 \$100.00 a week?

22 A I would have to pay \$100.00 a week until I  
23 came up with the whole 3,500.

24 Q To ahead, please.

25 A I told him I tried that \$100.00 a week and his

1  
2 partners in there told me that I better not, I better  
3 pay these payments because he's giving me a brake,  
4 one of the guys and Zero was fooling around inside  
5 the place, you know, trying to put on a show --

6 Q Was anything said to you inside?

7 A Yes. I must pay the \$100.00 a week.

8 Q Did anybody say, "Maybe we ought to get  
9 a gun and put a bullet in his head"?

10 A Yes, that's what he said.

11 Q Who said that?

12 A Zero said that.

13 Q When did he say that?

14 A He said that inside the store.

15 Q When?

16 A The day I went down there with the \$100.00,  
17 when I didn't have the \$175.00.

18 Q When was that?

19 A That was the meeting that took place when I --  
20 on McDonald Avenue in the Cycle Shop, and I'm not sure  
21 of the dates, around November or December, late.

22 Q Of last year?

23 A Last year.

24 Q At least six months ago?

25 A Right.



1  
2 Q At that time, Zero said, "Maybe we  
3 ought to get a gun and put a bullet in his head?"

4 A Right.

5 Q Did one of the other two men say, make  
6 it clear to you that they didn't go to you, you went  
7 to them to get the money?

8 A Yes, that's what they said.

9 Q How long did you pay the \$100.00 a week?

10 A About two months, three months.

11 Q That would take you up into February or  
12 so of this year?

13 A Around there, right.

14 Q Did you have another meeting with Zero  
15 at that time which you discussed the amount of money  
16 you had to pay?

17 A Yes, I did.

18 Q What did you say to Zero and what did he  
19 say to you?

20 A I said to him I couldn't afford \$100.00 a week  
21 any more.

22 Q Where did that meeting take place?

23 A That meeting took place, I think at the Cycle Shop.

24 Q Were the same two people who had been  
25 there before there at that time?

1  
2 A Yes.

3 Q What did Zero or either of those other two  
4 people say back to you?

5 A They said that, "We're going to give you a brake  
6 and now you'll pay \$50.00 a week and the loan will  
7 cost you \$4,800 and that wouldn't be a vig., that  
8 will be your regular payment." In other words, it  
9 will be taken off the top, off the principal. It  
10 would have to be 50 a week until it reaches \$4,800.

11 Q How long did you pay the \$50.00 a week?

12 A About two months, two and a half months,  
13 three months.

14 Q Up to the time that you went to the F.B.I.?

15 A Yes, I did.

16 Q Actually you went to the District Attorney,  
17 didn't you?

18 A Yes, I did.

19 Q A District Attorney in Brooklyn put you  
20 in touch with the F.B.I.?

21 A Yes, he did.

22 Q On any occasions, were there times when  
23 you couldn't make the payment of \$50.00 a week?

24 A Yes.

25 Q Can you tell us if you ever gave the money



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to anybody besides Zero?

A Yes, I gave it to a man that works at the luncheonette, black hair, tall guy. I don't know his name, and I gave it to a kid. Sometimes a kid used to be working there behind the counter.

Q I'm going to show you a photograph. Do you see either of those men in that photograph?

A Yes, this one.

Q Put a circle around his head, right around his whole face. (Marking)

Q Put the date beside it and your initials. (Marking)

MR. MURPHY: May I have this marked as No. 2.

(Whereupon, the abovementioned photograph was marked as Grand Jury Exhibit No. 2.

Q Which one of the two individuals did you just put your initials next to?

A The guy I gave the money to.

Q Not the kid?

A Not the kid, no.

Q On Monday, May 15th of this year, did there come a time when you saw Zero parked in a Mercury

1  
2 automobile at the corner of 85th Street alongside  
3 a cemetery?

4 A Yes.

5 Q That's within the past month or so?

6 A Yes.

7 Q In other words, it was not 1971?

8 A No, it was 1972.

9 Q Was there anybody else in the car with him?

10 A Yes, a friend of his.

11 Q At that time, did you walk over to the car?

12 A Yes, I did.

13 Q When you approached the car, did you have  
14 any conversation with Zero?

15 A Yes.

16 Q At that time, were you behind in any of  
17 your payments?

18 A Yes, I was.

19 Q When you got over to the car, did Zero  
20 say to you, "I'm going to put you in a hospital where  
21 no hospital bill will ever pay the damages. I'm going  
22 to do to you"?

23 A Yes, he did.

24 Q He said that to you?

25 A Yes.



1  
2 Q Was that before or after you went to the  
3 Brooklyn District Attorney's office?

4 A That was before I went to the District Attorney's  
5 office.

6 Q At that time, did he also tell you that  
7 for every \$1,000 you gave him, he will knock \$400.00  
8 off the principal of the loan?

9 A Yes.

10 Q On at least one occasion, did a guy named  
11 Tony Basile accompany you to the luncheonette to  
12 pay Zero?

13 A Just once he did.

14 Q Let's go to May 29th, 1972, on that night,  
15 did this man, Patty McCabe who first introduced you  
16 to Zero come to your house?

17 A Yes.

18 Q He rang the doorbell?

19 A Right.

20 Q You went downstairs after he had spoken  
21 to your wife and your wife spoke to you? You went  
22 downstairs, didn't you?

23 A Yes, I did.

24 Q After going downstairs, did you see Zero  
25 out in the street?



1  
2 A Yes, I did.

3 Q Was he in a car?

4 A No, he was not.

5 Q When you got down there, did Zero ask  
6 you, "What's your excuse now?"

7 A Yes.

8 Q What did you understand him to be talking  
9 about?

10 A About payments of money.

11 Q You were late at that time?

12 A Late at that time.

13 Q What did you tell him?

14 A I tried to tell him and all of a sudden I got  
15 belted.

16 Q Who hit you?

17 A Zero.

18 Q Where did he hit you?

19 A In the eye, on this side here, he hit me here.  
20 He hit me on the chin and he hit me in the ribs.

21 Q Who else was standing right there when you  
22 were hit?

23 A Patty.

24 Q Anybody else?

25 A No.

1  
2 Q Isn't it a fact that Patty jumped in  
3 front of Zero and kind of held him back from you?

4 A Yes, he did.

5 Q Did Zero succeed in saying to you, "You're  
6 not paying me any more, right?"

7 A That's right.

8 Q Did he get that out before he hit you?

9 A Yes. He got that out before he hit me.

10 Q Did you get a chance to tell him that  
11 your pay was being garnished?

12 A I did.

13 Q There came a time within the past couple  
14 of weeks, did there not, when you went out and you had  
15 a meeting with Zero which was observed by F.B.I. agents?

16 A Yes.

17 Q At that time, did you wear a body recorder?

18 A Yes, I did.

19 Q Would you tell the ladies and gentlemen of  
20 the Grand Jury what that device looked like and where  
21 you wore it.

22 A I had a recorder in my back pocket, back here  
23 by where I keep my wallet in my righthand side. I had  
24 like a tube right here by the stomach.

25 Q This was all inside your clothing?



1  
2 A All inside my clothing, right.

3 Q Where did you go to meet Zero, what's  
4 the first place you went to?

5 A I went to the luncheonette on Avenue X.

6 Q After you went to the luncheonette at  
7 Avenue X, were you met by anybody?

8 A Yes, I met another guy there.

9 Q Have you talked about that guy at all  
10 today? Is he one of the unknown persons you referred  
11 to in your answers, either the guy who used to get  
12 the money at the luncheonette or either of the two  
13 men inside the Cycle Shop?

14 A No, he's not.

15 Q This is a new person?

16 A A new person.

17 Q Tell us what did you say to him and what  
18 did he say to you?

19 A He said, "Do you have the money?" I said, "No,  
20 I haven't. I'd like to see Zero." I wanted to see  
21 Zero, talk to him. He said to me that Zero was at a  
22 friend's house -- some guy's house and, "Would you  
23 like to come in my car and I'll take you over there."  
24 I said, "No, I don't want to go in your car. Just  
25 tell him to meet me here by the store." He said to me --



1  
2 then it was going to work out where I wouldn't see  
3 Zero at all and we made arrangements that I told  
4 him that I'd meet him in front of Brown's Furniture,  
5 Bram's Furniture store near Neil's across McDonald  
6 Avenue by West 1st or West 2nd Street. I walked it  
7 down there while he went to get Zero by Zero's  
8 friend's house.

9 Q You walked down to Bram's by yourself?

10 A Yes, right. I walked down to Bram's by myself.  
11 While I was walking down there, I kept repeating in  
12 the recorder what street I was located on to the agents  
13 with the recorder on me. I told them exactly where  
14 I was going. I got to Neil's or Brown's store  
15 because they're both on the same side of the street.  
16 I got there, and I waited there for about five or ten  
17 minutes and then a car pulls up with the fellow that  
18 I met by the store and Zero. As soon as Zero got  
19 out of the car, he searched me. He started searching  
20 me, and I says, "What are you doing?" He said, "Never  
21 mind. Come on in the car. We'll talk this over."  
22 I says, "I'm not going into no car. I'm not going  
23 in nobody's car," and we ended up where we started  
24 talking and we went up the street. I told him that  
25 I didn't have -- I haven't been being paid. I've

1  
2 been having trouble with my pay I kept telling him  
3 and one thing led to another and his friend kept  
4 telling him, "Look, he has a family as well as you  
5 have and he has to make good," and all that.

6 Q At this time, how many of you were  
7 standing together, yourself and who else?

8 A Myself and two other guys.

9 Q Who were the other two guys?

10 A Zero and the fellow that I met by the store.

11 Q He's the guy, the first fellow you met  
12 that evening?

13 A Yes, that's right.

14 Q Go ahead, please.

15 A We were talking by Neil's for about a few  
16 minutes and then he said to me, "Let's take a walk up  
17 the block." While we were walking up the block, he  
18 said to me that I was, that he was good to me and all  
19 this and that he called me a few names and a car pulled  
20 up, and I don't know if he made the threat to me or the  
21 person that came out of the car, but he did mention  
22 the fact that his friend had a gun.

23 Q Didn't somebody say to you when that car  
24 pulled up, "If he moves, put a bullet in him"?

25 A Yes.



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Q That was said by Zero?

A Yes.

Q At the time, was the other man standing behind you?

A Yes, he was.

Q When you went to the Brooklyn District Attorney's office, were you frightened?

A Yes, I was.

Q Who were you frightened of?

A I was frightened of Zero.

Q Why were you frightened of Zero?

A Because I know that the man is a sadistic kind of a guy. He doesn't care -- he always kept telling me that if he wanted to do something to you, he'd do it any time.

Q Were you fearful of bodily harm to yourself?

A No, more for my family.

Q Didn't you go out and spend a weekend at a motel?

A Yes, I did.

Q Trying to get away from this guy?

A Yes, I did.

Q Have you been back to work since you went to the F.B.I.?



1  
2 A No, sir. I have not.

3 Q Are you fearful to go back to work  
4 because you don't want Zero to get in touch with you?

5 A Yes, that's true.

6 Q When this remark was made about the gun  
7 and putting a bullet in somebody, did you really  
8 think that he was talking about somebody else?

9 A I think he was talking about me.

10 Q You thought he was talking about you?

11 A Yes.

12 Q At that time, did you think it was a joke?

13 A No, I did not.

14 MR. MURPHY: I have no  
15 further questions of this witness  
16 at this time. May his subpoena be  
17 adjourned so that he will realize  
18 he has to return here upon telephone  
19 notice.

20 THE FOREMAN: The subpoena  
21 is adjourned and by notice, you will  
22 return to the Grand Jury.

23 (Whereupon, the witness was  
24 excused and withdrew.)  
25

1  
2 UNITED STATES DISTRICT COURT

3 EASTERN DISTRICT OF NEW YORK

4 -----X

5 UNITED STATES OF AMERICA

6 -against-

Criminal Folder

7 "ZERO" a/k/a CIRO R.

No. 723,242

8 RICCARDI

9 -----X

10 GRAND JURY MINUTES

11 April 18, 1973

12 225 Cadman Plaza East  
13 Brooklyn, New York

14  
15  
16 Presented By: ALAN R. NAFTALIS, ESQ.,  
17 Special Attorney,  
18 Department of Justice

19  
20 Reported By: Maureen Kramer

21  
22  
23 Witness:

24 FRANK DIPALMA



1  
2 FRANK DIPALMA, after having been duly  
3 sworn assumed his seat as a witness and testified  
4 as follows:

5 EXAMINATION BY MR. NAFTALIS:

6 Q Mr. DiPalma, I first want to ask you have you  
7 come here voluntarily as a witness?

8 A Yes.

9 Q Mr. DiPalma, I want to give you your rights.  
10 While you are not a target in this case, I do want to,  
11 for the record, instruct you as to exactly what your  
12 constitutional rights are.

13 First of all, Mr. DiPalma, we have rights under the  
14 fifth amendment which means that you don't have to say  
15 anything incriminating. If you feel the statement is  
16 going to be incriminating, by that, I mean will reveal  
17 criminal behavior on your part or lead to the finding of  
18 evidence of criminal behavior on your part, you don't have  
19 to testify to that. You can invoke your fifth amendment  
20 right.

21 Moreover, you are also entitled to counsel and for  
22 the Grand Jury, that means if you should so desire, you  
23 may consult with a lawyer prior to your appearance and  
24 you can have a lawyer right outside that door and you can  
25 talk to him any time you wish by just getting up, walking



1  
2 out and asking him any questions you have about your rights  
3 and about the questions being posed to you here in the  
4 Grand Jury.

5 Do you understand that?

6 A Yes.

7 Q Mr. DiPalma, have you ever appeared before the  
8 Grand Jury?

9 A Yes.

10 Q Did you appear here on May 22, 1972?

11 A Yes.

12 Q Did you appear here on June 13, 1972?

13 A Yes.

14 Q I show you these two documents. Do you recognize  
15 them?

16 A Yes, I do.

17 Q Are these transcripts of your testimony on  
18 those two dates?

19 A Yes, I remember this.

20 Q Were you under oath when you testified at that  
21 time?

22 A Yes, I was.

23 Q Mr. DiPalma, I am going to read the transcript  
24 to you, and I want you to listen to it and then I will ask  
25 you certain questions about it when I'm finished.

(Whereupon the two transcripts were marked as Grand Jury Exhibits 1 and 2 and read to the Grand Jury.)

Q Was that your testimony on those two occasions that I just read to you?

A Yes.

Q Were you telling the truth at that time?

A Yes, I was.

Q Mr. DiPalma, if you were to testify here today for the first time, would you tell the same story now that you told then?

A Yes, I would.

Q It is the truth?

A Yes, sir. It is.

MR. NAFTALIS: Mark this photograph as Grand Jury Exhibit 3.

(Whereupon a photograph was marked as Grand Jury Exhibit 3.)

MR. NAFTALIS: I have no further questions.

THE FOREMAN: You are continued under subpoena subject to recall on notification from Mr. Naftalis's office. You are excused for the day.



DiPalma

4a

(Whereupon the witness was excused  
and withdrew.)

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1 If they have any questions, tell them Judge Platt  
2 ordered them to be here.

3 AGENT RUFFELS: That's pretty definite.

4 (The jury enters the jury box.)

5 THE COURT: Ladies and gentlemen, even the  
6 most sophisticated equipment breaks down. Unfor-  
7 tunately, it doesn't happen too often, but it  
8 happened to us. We're going to take a witness out  
9 of order. I don't think it will be too confusing  
10 for you. You'll have that witness's direct testi-  
11 mony this afternoon and then we'll go back to this  
12 equipment, and Mr. Ruffels' cross-examination and  
13 the cross-examination of the witness who is about  
14 to take the stand. We'll have that also, tomorrow,  
15 after Mr. Ruffels.

16 Just keep in mind where we're at, and we're  
17 taking a witness out of order.

18 MR. NAFTALIS: Thank you, your Honor.

19 The Government calls Frank DiPalma.

20  
21 F R A N K      D I P A L M A,      called as a witness, was  
22 duly sworn by the Clerk of the Court, testified  
23 as follows:

24 THE CLERK: Full name for the record?

25 THE WITNESS: Frank DiPalma, D-i-P-a-l-m-a.



DiPalma-direct

## DIRECT EXAMINATION

BY MR. NAFTALIS:

Q Mr. DiPalma, are you married?

A Yes.

Q Do you have any children?

A Yes.

Q Please indicate to the Court their ages.

A Ten and five.

Q Do you live with your wife and children?

A Yes.

Q Do you live here in Brooklyn?

A Yes.

Q By whom are you employed?

A New York City Transit Authority.

Q What's your occupation?

A Car cleaner.

Q How long have you been so employed?

A Close to six years.

Q Mr. DiPalma, were you working for the

Transit Authority in 1972?

A Yes.

Q Mr. DiPalma, have you ever been convicted of  
any crime?

A No, sir.

DiPalma-direct

Q Ever been arrested for any crime?

A No, sir.

Q Mr. DiPalma, are you now or have you ever been a bookmaker?

A Once, yes.

Q Would you explain to the Court and members of the jury what involvement you had, if any?

MR. NEWMAN: Might we know, your Honor, when this was, approximately?

THE COURT: I assume-- When was this that you were once a bookmaker?

THE WITNESS: In 1970-- '72.

THE COURT: 1970 to '72?

THE WITNESS: Yes.

THE COURT: Three years?

THE WITNESS: Yes.

Q Mr. DiPalma, would you please explain to the members of the jury and the Court the nature of your activity?

A I used to pick up horse action in the place, go down to the track or go to OTB, because I was on nights at the time.

Q When you said you'd pick up action at the place, what place did you mean, Mr. DiPalma?



DiPalma-direct

1  
2 A Coney Island Avenue shop.

3 Q Was this a Transit Authority--

4 A Transit Authority, right.

5 Q As I understand your testimony, you would  
6 pick up bets there and go to the track?

7 A Yes.

8 Q And what would you do when you got to the  
9 track?

10 A I'd hedge off the bets, or I'd hold the bets  
11 I thought the horse couldn't win.

12 Q What do you mean by hedging off the bets?

13 A In other words, if I felt the horse couldn't  
14 win that race, I would hold onto what they gave me to bet.

15 Q If you thought the horse would lose-- If  
16 the horse would win?

17 A Then I would bet the horse.

18 Q Where would you bet it?

19 A At the track.

20 Q Where at the track?

21 A Aqueduct, Belmont.

22 Q Where at the track would you place your bet?

23 A At the windows.

24 Q You would go to the regular paramutuel  
25 window and bet?

DiPalma-direct

Q Are there times you couldn't go to the track, where would you place your bets?

A OTB.

Q You would walk into an OTB office and bet?

A Yes.

Q As I understand your testimony, you would bet at the track, at the paramutuel window, and when you couldn't go to the paramutuel window, you went to OTB offices and bet?

A Yes.

Q This is what you describe as your bookmaking operation?

A Yes, but I don't do that every day. Somebody else did it. I did it a few times, three or four times a week, whenever I wanted to come in and do it, I did it.

Q So, as I understand it, basically, your operation was picking up bets for people--

MR. NEWMAN: Objection.

THE COURT: Don't lead the witness.

Don't summarize his testimony. Ask him questions about it.

Q Mr. DiPalma, other than betting at the paramutuel window, or betting at the OTB office, did you bet with any other source?



DiPalma-direct

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2

A Did I bet personally?

3

Q No, the action that you took.

4

A I don't understand.

5

Q Did you place your bets with any other place

6

or person other than the paramutuel--

7

A No, the windows or I held it myself.

8

Q Or at OTB?

9

A Or at OTB or I'd hold it myself.

10

Q Do you know a man named Ciro Riccardi?

11

A Yes.

12

Q Do you see that man present in the courtroom

13

today?

14

A Yes, sir.

15

Q Would you please identify which man it is?

16

A The man sitting there with the glass(sic) in

17

his mouth.

18

Q How did you first come to know Ciro Riccardi?

19

A I needed money, and a friend of mine that

20

works with me in the barn where I work, Avenue X, told me--

21

MR. LA ROSSA: Objection.

22

THE COURT: Don't recite what anybody told

23

you outside of the presence of these two defendants.

24

You needed money, so somebody took you to him?

25

THE WITNESS: Yes, sir.

Q They took you, who did they take you to?

A They took me to Ciro.

Q What if anything did you say to Mr. Riccardi?

A I asked him for a thousand dollars.

Q What did he say to you?

THE COURT: Sometime in 1972?

Q What if anything did he say to you?

A He told me that he'd give me the thousand dollars, to come and see him on a Friday, the following Friday, because it was a Saturday I went to see him. This I know because I was working overtime that day. He told me to come see him on a Friday.

Q Did you come to see him?

A Friday at three o'clock in the afternoon I did so come to see him.

Q What if anything did he say to you?

A He said, he gave me the \$1,000, and he charged me \$50 vig a week.

Q Did he explain to you what the vig was?

A Yes.

Q Would you please indicate to the Court and jury what vig is?

MR. LA ROSSA: I object.

THE COURT: Don't tell us what vig is.



DiPalma-direct

1  
2 You said what he told you vig was.

3 Q Would you please tell us what Mr. Riccardi  
4 told you vig was.

5 A He said, "It's \$50 a week, or \$1,050 the  
6 following week."

7 Q What happens if you didn't have the \$1,050  
8 the following week?

9 A Then you'd pay \$50 a week--

10 MR. LA ROSSA: I object to this.

11 THE COURT: That's all right.

12 MR. LA ROSSA: Are we asking what the con-  
13 versation is?

14 MR. NAFTALIS: I'm referring to the conver-  
15 sation.

16 MR. LA ROSSA: It doesn't appear--

17 THE COURT: Tell us what he told you was going  
18 to be, what vig meant and what you were going to have  
19 to do insofar as this is concerned, the installments.

20 A He told me-- First, he gave me \$1,000 and  
21 he told me that it would cost me \$50 a week and then he  
22 told me that if I didn't have the \$1,050 the following week  
23 it would still stay at the same principal, \$1,000.

24 Q What amount, if any, would you have to pay  
25 the following week?

DiPalma-direct

A \$50 a week if I didn't have the \$1,050.

Q Did he indicate to you how long you must continue paying that \$50?

MR. LA ROSSA: I object to the form of these questions. I think the witness should be asked--

THE COURT: I'll allow it. You're overruled.

MR. LA ROSSA: I'm objecting to the form.

THE COURT: I understand. That question is all right.

Q Continue, Mr. DiPalma.

A What did you say?

MR. NAFTALIS: Would the reporter please read the question back?

(The last question was read back by the reporter.)

MR. NEWMAN: Might I respectfully request nothing is binding on the defendant Gigliotti?

THE COURT: Up to this point the only person involved is Mr. Riccardi.

A No, you could pay it forever, as long as you give him the \$50 a week.

Q Did he indicate to you when there would come a time when you wouldn't have to pay the \$50 any more?

A No.



DiPalma-direct

Q Now, Mr. DiPalma, did you continue to pay the money?

A Yes, sir.

Q How long did you continue to pay this \$50 a week payments?

A Around three months.

Q Then what happened, if anything?

A I went back and borrowed \$1500 more.

Q Who did you borrow it from?

A Ciro Riccardi.

Q What if anything did you say to him at the time?

A "I needed the money because I was strapped."

Q What did he say to you, if anything?

A He didn't reply. He said, "Come and see me next week."

Q Did you continue to see him the following week?

A Yes.

Q What if anything happened then?

A He gave me \$1500 more.

Q What if anything did he say to you at that time concerning your weekly vig payment?

A He said I would have to pay \$125 a week.

DiPalma-direct

THE COURT: Which, \$125--

THE WITNESS: \$125.

Q This is what he said with respect to your vig payment?

A Yes.

Q What did you say to him?

A I said o.k.

Q Mr. DiPalma, at this point had you paid the \$1,000 that you had borrowed before?

A \$1,000 in three months, I don't know if it comes out to \$1,000.

THE COURT: No--

Q Had you paid the principal?

A The principal, yes, sir.

THE COURT: You paid the principal back on the \$1,000?

THE WITNESS: Yes, sir.

Q Mr. DiPalma, had you during that intervening three months paid principal or only vig?

A I'm sorry, I paid vig. I didn't understand. I paid vig all the time. It was never principal. It was always vig.

Q Now you've just testified that you were told that the vig payment is \$125. How long did you continue



DiPalma-direct

1  
2 paying this?

3 A About, a few months.

4 Q Then what happened?

5 THE COURT: Was it on top of the \$50? In  
6 other words, you were paying \$75 more or were you  
7 paying \$125 plus \$50?

8 THE WITNESS: No, sir, I was paying \$75--  
9 \$50 plus \$75 on top.

10 THE COURT: All right, \$125 in toto.

11 MR. LA ROSSA: Re-fix a date on that last  
12 conversation, when it was.

13 THE COURT: About when was that?

14 THE WITNESS: Sometime in 1972, your Honor.

15 THE COURT: You can't do better than that?

16 THE WITNESS: No, sir.

17 THE COURT: All right.

18 MR. LA ROSSA: May we fix a place?

19 THE WITNESS: The place?

20 MR. NAFTALIS: Your Honor, isn't this subject  
21 for cross-examination?

22 THE COURT: No, it's perfectly proper.

23 Q Mr. DiPalma, do you recall where you met with  
24 Mr. Riccardi?

25 A The first place, I recall going back to the  
first place, and the second and the third, if I may.

Dipalma-direct

THE COURT: Tell us.

THE WITNESS: The first place was we spoke in a car, gave me the money in a candy store. It's located on Avenue X and I'm not sure about the street, again. It's across the street from a Chinese restaurant. That's all I know about that first place.

The second place he gave me the money in a motorcycle shop. That's located McDonald Avenue between Avenue Z and the street that's above -- Avenue X and the street that is above Avenue X.

Q All right. Now, Mr. DiPalma, did you pay that \$125 a week vig?

A Yes, sir.

Q How long did you pay that vig--

MR. LA ROSSA: Object to the form of these questions.

THE COURT: Overruled.

MR. LA ROSSA: The prosecutor is characterizing.

THE COURT: He characterized it as vig.

MR. LA ROSSA: The witness may. I think you should caution him.

THE COURT: Overruled.



DiPalma-direct

Q Mr. DiPalma, how long did you continue to make that \$125 vig payment?

A Around five or six months.

Q What happened then?

A Then I needed another \$1,000.

Q What did you do about raising the money? What if anything did you do?

A I went back and seen Ciro.

Q Who do you mean by that?

A The gentleman sitting right there.

Q Would you be a little more specific?

A The man sitting there with the glasses.

Q Is that the man you earlier identified as being Mr. Riccardi?

A Yes, sir.

Q What happened when you saw Mr. Riccardi this third time?

A The third time he met me in a Lincoln. He had a Lincoln with an English--Italian bulldog in the back. That's what I remember that time, Italian bulldog.

Q What if anything did you say to him?

A I needed another \$1,000.

Q What if anything did he say to you?

A He gave it to me the following Monday.

DiPalma-direct

I don't know if it was on a Thursday or a Friday, but I know he got it in a few days. It could have been Monday or it could have been on a Tuesday that he gave it to me.

Q When he met with you and gave you the money, what if anything did he say to you then?

A He said that now it would cost me \$175 a week.

Q What was that \$175 supposed to be?

A That was supposed to be the vig that would go, stay the same until you came up with \$3500--\$175.

Q Mr. DiPalma, you testified that you came to see Mr. Riccardi three times and borrowed money?

A Yes.

Q Was Mr. Riccardi the only person at that time that you were borrowing money from?

A No, sir.

Q Would you please indicate to the Court and the jury who else you were borrowing money from?

MR. LA ROSSA: Objection.

THE COURT: Is it connected in any way with this case?

MR. NAFTALIS: Your Honor, I believe it is relevant.

THE COURT: The connection with either of these two defendants?



DiPalma-direct

MR. LA ROSSA: I don't think it should be answered like that, your Honor. I'm afraid something might be said.

MR. NAFTALIS: I can approach the bench.

THE COURT: Very well.

(Side bar)

MR. NAFTALIS: Your Honor, Mr. DiPalma will not be testifying at this point with respect to any other persons the Government alleges is on-- He'll be testifying not as to Riccardi, but as to normal fiduciary institutions, that he borrowed money from.

Your Honor, the credibility, as has been indicated in advance by Mr. LaRossa as being significant--it has been alleged in the opening address by Mr. LaRossa that Mr. DiPalma was an active loan shark and active bookmaker, and I believe because of this and because of the evidence of the defense--I expect the defense to be offering in defense of these defendants--

THE COURT: You're anticipating something.

MR. LA ROSSA: He admitted he's a bookmaker.

MR. NAFTALIS: I believe it's relevant.

THE COURT: With what?

MR. NAFTALIS: With respect to this man, if

DiPalma-direct

he was a loan shark, he wouldn't be borrowing money from various institutions.

THE COURT: If you're trying to bring it out on cross-examination or testimony to that effect, then you could put him on for this purpose-- You can't anticipate something that may or not occur. There's been no contention apart from the fact that Mr. LaRossa stuck his neck out, which he may not be able to support, but if he doesn't choose to support it, it won't be relevant.

MR. NAFTALIS: I'll hold that off for rebuttal purposes.

THE COURT: I would think so. Maybe on redirect after you get finished with cross-examination.

MR. NAFTALIS: Very well.

(The following occurred in open court.)

Q Mr. DiPalma, going back to the period which you testified you borrowed money from Mr. Riccardi, what was your general state or financial condition at the time?

A Bad, very bad.

Q Could you please explain that to the Court?

MR. LA ROSSA: Objection.

THE COURT: I'll allow it.



AVEX  
HANS  
1800-00

DiPalma-direct

5000

2 A I owed National City Bank-- First National  
3 City Bank, Chase Manhattan Bank, Household Finance,  
4 Beneficial Finance, Commercial Credit Union, Bankers Trust,  
5 a few odds and ends, plus I owed my relatives money, and  
6 mother, father, my aunt and uncle, my sister-in-law,  
7 brother-in-law.

8 Q Mr. DiPalma, what if anything did you do with  
9 the money that you had received from those various banks  
10 and people that you just named?

11 A With that, plus with my gambling, I used to  
12 give whatever I could get up to pay the vig during the week  
13 and use it for gambling.

14 Q How did you go about this gambling?

15 A I'd bet horses, baseball, football, any sport.  
16 I was a degenerate gambler. That's what I was.

17 Q Would you explain to the Court and to the  
18 members of the jury what you mean by the term "degenerate  
19 gambler"?

20 A It's a person who just likes to go--likes to  
21 gamble; a person that doesn't care about the people that  
22 love him, a person that just doesn't give a damn, as long  
23 as--he's happy gambling, that's it. It may be horses, it  
24 may be anything, gambling on anything.

25 Q What were you gambling on at the time?

DiPalma-direct

A Mostly on horses and sports.

Q Where were you placing these bets?

A With bookies.

Q Mr. DiPalma, you've testified as to a rather long list--

MR. LA ROSSA: I object to the form of that question.

THE COURT: I'll allow that. It's just a summarization; it's not important. Go ahead.

MR. NAFTALIS: Thank you, your Honor.

Q Mr. DiPalma, you've testified to a rather long list of institutions that you owed money to. Approximately how much do you believe you owed at that time?

A About \$12,000, \$13,000.

Q How much were you earning at your job?

A \$140 a week.

Q Is that take-home or gross?

A Take-home.

Q Approximately how much is that a year that you were earning?

A Around \$9,000.

Q Mr. DiPalma, you testified that your vig payments became \$175 a week?

A Yes.



DiPalma-direct

1  
2 Q Mr. DiPalma, how long did you continue to  
3 pay this \$175 a week?

4 MR. LA ROSSA: I object to the form of the  
5 question.

6 THE COURT: I'll allow it.

7 Q Mr. DiPalma?

8 A About four or five months.

9 Q You paid it for four or five months?

10 A Yes, sir.

11 Q Does that mean you paid it every week?

12 A I paid it every week, \$175.

13 Q Mr. DiPalma, did there come a time that  
14 you could not make your vig payment?

15 MR. LA ROSSA: Objection to the form of the  
16 question.

17 THE COURT: I'll sustain that.

18 Q Mr. DiPalma, did there come a time that you  
19 could not pay Mr. Riccardi?

20 MR. LA ROSSA: Objection to the form of the  
21 question.

22 THE COURT: Yes, I'll sustain the form.

23 Q Mr. DiPalma, you've testified that you paid  
24 this for a couple of months?

25 A Yes.

DiPalma-direct

Q Then what happened?

A There came a time that I just didn't have the \$175 any more.

Q How much? I'm sorry.

A I didn't have \$175 any more.

Q What did you do then?

MR. LA ROSSA: Might we fix a time and place?

THE WITNESS: 1973 and 1972.

Q Continue. What did you do then, Mr. Di-Palma?

A I went and seen him in the motorcycle shop.

Q When you say "him," who do you mean?

A Ciro Riccardi.

Q What if anything did you say to him?

MR. LA ROSSA: May it please the Court, I'll have to necessarily object in view of the witness's answer to the time. I direct the Court's attention to the indictment.

THE COURT: I understand what the indictment says. Are you able to fix any kind of month on this?

THE WITNESS: Your Honor, it's hard for me because it's been three years since I had this case, and it's hard for me to fix time. I'm not even sure



DiPalma-direct

1  
2 if it's '72 or '73.

3 THE COURT: Let me ask you this question:  
4 Do you recall the time when you wore a tape recorder  
5 and talked with one or more of these persons--one  
6 or more persons?

7 THE WITNESS: It was in the summer months.

8 Q I said do you recall that incident?

9 THE WITNESS: Yes.

10 THE COURT: Was this conversation which you're  
11 about to relate when you went to see Mr. Riccardi  
12 in the motorcycle shop before or after that?

13 THE WITNESS: This was after that.

14 THE COURT: After that?

15 THE WITNESS: Yes, much after that.

16 MR. NAFTALIS: I don't think he follows.

17 MR. LA ROSSA: I object to that.

18 THE COURT: I don't know if he follows or  
19 not.

20 MR. LA ROSSA: I ask that that be stricken  
21 from the record.

22 THE COURT: Disregard counsel's comment.

23 MR. NAFTALIS: If I may, your Honor?

24 THE COURT: Yes.

25 Q Mr. DiPalma, his Honor has just referred to

DiPalma-direct

a time when you wore a body recorder.

A Yes.

Q Do you recall that?

A Yes, I do.

Q Who did you wear that body recorder?

A Who did I wear it for?

Q Yes.

A For the FBI.

Q Now going back to your earlier testimony, Mr. DiPalma, when you spoke about the \$175 a week vig payments, when you were making those payments, was that before or after you began to speak to the FBI?

A Excuse me, I didn't hear that.

Q I'll try to repeat it, Mr. DiPalma.

You testified a few months ago, Mr. DiPalma, that you were paying \$175 a week in vig; is that correct?

A Yes.

Q You also testified that a time came when you just couldn't make that payment; is that correct?

A Right.

Q At the time you couldn't make that payment, was that before or after you began to talk to the FBI?

A That was before.

THE COURT: How long before?



DiPalma-direct

THE WITNESS: Once again--

THE COURT: A week, two weeks, a month?

THE WITNESS: It had to be months, at least  
a month.

THE COURT: All right.

Q Mr. DiPalma, referring to this time when you  
could not make your \$175 a week vig payment, what if any-  
thing did you do then?

A Well, I went back and seen Ciro Riccardi  
and had a meeting with him that night.

Q What if anything did you say to him or did he  
say to you?

A Well, at first he didn't want-- At first  
he told me-- He said, "There's nothing you can do for me."  
As I was telling him about the situation I was in, he turned  
around and told me he'd make it \$150.

Q Is that the vig payment?

A Yes.

Q What did you say to him then?

A I told him it would be hard.

He said he had his own problems and that's  
the way it had to be.

Q What if anything did you do then?

A Well, one week led to another, where I just

1 DiPalma-direct

2 couldn't get the money up. Then there was an incident that  
3 I recall well, is that at the end of the week, which was on  
4 a Friday, my wife told me there was nothing in the house--

5 MR. LA ROSSA: Objection.

6 THE COURT: Strike out what your wife said.

7 THE WITNESS: O.K.

8 A (Continuing) We had no food in the house--

9 MR. LA ROSSA: I object to this.

10 THE COURT: I'll allow him to testify he had  
11 no food in the house.

12 Q Continue.

13 A We had no food in the house on a Friday.

14 I already made my payment of \$150.

15 Q To who?

16 A Ciro Riccardi.

17 Q Continue.

18 A I went back Saturday morning and asked him  
19 for a hundred dollars, if he can put it on the side.  
20 He told me no.

21 Q What did you tell him you needed the money  
22 for?

23 A Food.

24 Q What did he say to you?

25 A No, he can't do it.



DiPalma-direct

Q Continue, Mr. DiPalma, what happened next?

A From there I went back home, I went out to New Jersey where my mother lives, and I got the money from her.

Q What money is this, Mr. DiPalma?

MR. LA ROSSA: Objection.

A Money for--

THE COURT: I'll sustain it.

A (Continuing) --I went to Jersey--

THE COURT: No, I sustained it.

THE WITNESS: Sustained? I'm sorry.

Q What did you do with the money you got in New Jersey?

MR. LA ROSSA: Objection.

THE COURT: I'll sustain it.

Q Mr. DiPalma, what happened next?

A Well, a week or two went by and I came over and I met him on Avenue X again.

Q Who is "him"?

A Ciro. I met Ciro Riccardi on Avenue X.

Excuse me. Can I stop there and start all over again?

Q Sure.

A Prior to that I met-- I was ducking him for a week. I was hiding for a week.

DiPalma-direct

Q Why were you hiding?

A I didn't have the 175.

MR. LA ROSSA: Objection.

THE COURT: I'll sustain it. Disregard it, ladies and gentlemen.

Q Mr. DiPalma, what happened after you were ducking him?

A I was driving on 85th Street, going home on a Thursday night and a car stopped me on the corner of 16th Avenue and 85th Street, pulled me over to a cemetery by the johnny pump.

I got out of the car, which at the time was a 1966 Oldsmobile, walked over to a 1966 Lincoln, I believe.

Q Who, if anyone, was in that car?

A Ciro Riccardi, and that gentleman with the brown suit there (indicating).

Q They were both in the car?

A That's right.

Q What if anything did you say, and what if anything did they say?

A Well--

MR. NEWMAN: Might we know who said it?

I object to the use of "they," or "he."

THE COURT: You're sure it was the gentleman



DiPalma-direct

with the brown suit?

THE WITNESS: Yes.

THE COURT: Can you identify which particular gentleman said what?

THE WITNESS: Yes, I can.

THE COURT: All right.

A       Ciro Riccardi asked me where have I been. I told him I'd been around. "I haven't had a chance to come down and see you yet."

He told me that if I don't get this money up he's going to put me in the hospital where no doctor bills are going to be able to pay for it.

Q       What did you say then?

A       I says, "Well, I'm having a hard time."

He says he's having a hard time, too, doesn't want to know about my hard times.

Q       What if anything else did he say?

A       When he said that, the gentleman there with the brown suit (indicating) said, "Look," in the words of this, he said, "It doesn't pay for you to get hurt." He said, "Why don't you pay him? or do what you can to pay him?" Then he says, "Go ahead and go."

I left that day, went back home.

Q       What happened next, Mr. DiPalma?

DiPalma-direct

1  
2 A I came back about two days later. I made out  
3 a phony check for \$900, brought it down to see him, which  
4 was on a Friday, showed him the check and told him I was  
5 going to use that to pay off what I owed him, off the top.  
6 It would come off the top, in other words. In other words,  
7 if I gave him \$900 from \$3500 down it would cost me one  
8 hundred and a quarter. That's what it would cost me if  
9 I brought it down to \$900, if I gave him the nine hundred.

10 Well, I didn't have \$900. I just did that  
11 to buy some time to see if somebody could lend me some  
12 money. It just came down to the fact I couldn't get any  
13 more money any more.

14 Q Mr. DiPalma, you referred to "him."

15 A Ciro Riccardi.

16 Q What happened next, Mr. DiPalma?

17 A It was the following day and I had to go and  
18 face him for the money and I didn't have-- not even fifty  
19 cents on me.

20 MR. LA ROSSA: Let's see if we can fix a  
21 date on this, please.

22 THE COURT: Are we still before the time--

23 THE WITNESS: This was the time.

24 THE COURT: Before you went to the FBI?

25 THE WITNESS: Before.

THE COURT: How much before, do you have



DiPalma-direct

1  
2 any idea?

3 THE WITNESS: I would say two weeks before  
4 now.

5 THE COURT: Very well.

6 THE WITNESS: It was two weeks before the  
7 FBI.

8 Q What happened then, Mr. DiPalma?

9 A I made out-- I didn't have the money, like  
10 I said before. I didn't have the money. I went to the  
11 park. Nobody was there but myself. I made up my mind.  
12 I didn't know what to do because prior to all these times  
13 when I didn't have the payment--

14 MR. LA ROSSA: I object to this, your  
15 Honor.

16 THE COURT: Don't give us your mental  
17 processes. Did you go see either of the defendants?

18 THE WITNESS: No, sir, I did not go see the  
19 defendant. I didn't go see the defendant, but I  
20 went to the Coney Island Police Station.

21 Q What if anything did you tell the police?

22 A I spoke to a detective at the desk and he  
23 suggested that I would talk to people downtown in the  
24 District Attorney's office.

25 Q Then what if anything happened?

DiPalma--direct

1  
2 A That was the day I went down to the District  
3 Attorney's office.

4 Q How did you get down to the District  
5 Attorney's office?

6 A They drove me down.

7 Q "They"? Who do you refer to as "they"?

8 A Two detectives.

9 Q Mr. DiPalma, have you ever heard of the man  
10 named Detective Kinsella?

11 A Yes, sir.

12 Q Where do you have Detective Kinsella from?

13 A He was one of the officers that came to the  
14 house with me that night.

15 Q Mr. DiPalma, Detective Kinsella, is he related  
16 to you?

17 A No, sir.

18 Q By marriage?

19 A No, sir.

20 Q Before you ever went to the police station  
21 that day, had you ever seen Detective Kinsella?

22 A No.

23 Q Had you ever spoken to him?

24 A No.

25 Q Did you know anything about him?



DiPalma-direct

1  
2 A No.

3 Q Since that day you met with Detective  
4 Kinsella, that day, have you ever been with him again?

5 A No, sir.

6 Q Have you ever talked to him?

7 A No, sir.

8 Q Has he since become a member of your family?

9 A No, sir.

10 Q Mr. DiPalma, you testified that the detectives  
11 took you down to the District Attorney's office. What if  
12 anything happened then?

13 A They brought me up, brought me into their  
14 office, and I sat there and spoke to one Captain Evans.

15 Q What if anything did you tell Captain Evans--

16 A I explained--

17 MR. LA ROSSA: Objection.

18 THE COURT: He can say what he said to  
19 Captain Evans. He can't say what Captain Evans  
20 said to him.

21 A (Continuing) I explained to Captain Evans--

22 MR. LA ROSSA: Might I tell the Court if we  
23 fix the date on this, you'll understand what my  
24 purpose is?

25 THE COURT: Can we fix a date?

DiPalma-direct

1  
2 THE WITNESS: Your Honor, if I knew exactly  
3 the date, believe me, I would say it, but I cannot  
4 fix a date because I don't know.

5 MR. LA ROSSA: He's testified it's subsequent  
6 to the time he went to the police station. We've  
7 gotten those dates from the police witness, so  
8 I now refer your Honor to the indictment again and  
9 I ask your Honor to exclude this testimony based  
10 upon the fact that it's outside the scope of the  
11 indictment. We now have the dates fixed.

12 MR. NAFTALIS: Your Honor, this is within  
13 the period of the indictment.

14 THE COURT: No, it isn't--

15 MR. NAFTALIS: Your Honor, I believe this is  
16 May 17, 1972. The indictment says "May 18, 1972."

17 THE COURT: I beg your pardon?

18 I guess that's right.

19 MR. NAFTALIS: If I may approach the bench?

20 THE COURT: No, there's no reason for that.

21 I'll allow it.

22 MR. LA ROSSA: Note my objection.

23 Q What if anything did you tell Detective--  
24 I'm sorry. Captain Evans.

25 A I told Captain Evans that I was involved in



DiPalma-direct

1  
2 a shylock case where I borrowed money and I couldn't pay it  
3 back any more. I didn't know what to do and I decided to  
4 come to the police, and Captain Evans told me--

5 THE COURT: No, not what Captain Evans told  
6 you.

7 A (Continuing) I met the next morning at nine  
8 o'clock. I came back and I met with the FIB.

9 Q Mr. DiPalma, referring back to the 17th, the  
10 day that you met with Captain Evans, would you please tell  
11 the Court and the members of the jury what if anything  
12 happened that evening.

13 A Excuse me, would you say that again?

14 Q I'm sorry, Mr. DiPalma, I'll try to keep my  
15 voice up.

16 Mr. DiPalma, referring back to May 17th,  
17 which is the day that you testified you met with Captain  
18 Evans, what if anything happened that night?

19 A That night? That night two-- Sergeant  
20 Olesky drove me home in his car and we parked the car on  
21 17th Avenue and 85th Street and we walked up the street,  
22 brought me to my house, and he came upstairs and another  
23 detective who I called Jimmy, who I met by the name of  
24 Jimmy, down there, came upstairs after Sergeant Olesky  
25 was upstairs.

DiPalma-direct

Q Then what if anything happened?

A About an hour-- Excuse me, a half hour later some people were banging on my door, wanted to get in. Sergeant Olesky told me to go into the bedroom and they drew their guns.

Q Now, what if anything else happened?

A Well, I went by the window in the bedroom and my children were sleeping. My wife was not. She was up.

We heard banging, "Open up the door. We'll bust it down. You'd better pay..." such and such. You know, the words, about two or three minutes later they left. Walking down the stairs was Ciro Riccardi.

Q How do you know that it was Ciro Riccardi?

A Because I know.

Q How do you know?

A How do I know?

Q Yes.

A At the time Ciro Riccardi had a goatee, hair combed down to the side. And how do I know is because from my right window in the bedroom as you go downstairs, the light shines right in your face and you can see exactly who it was. That's how I know who it was.

Q Did there come a time that you looked out of the window?



DiPalma-direct

1  
2 A That was the time that I looked out the window.  
3 That's how I knew who it was, by looking out that window,  
4 facing the light by my house.

5 Q Where is this light?

6 A The light is directly in front of that house,  
7 1670 85th Street.

8 Q Mr. DiPalma, did there come a time when you  
9 saw Ciro Riccardi again?

10 A Yes.

11 Q Would you tell the members of the jury and the  
12 Court?

13 A I was hiding from my own--

14 MR. LA ROSSA: I object to this, move it be  
15 stricken. It's not responsive to the question.

16 THE COURT: Yes, did there come a time, and  
17 you said yes. Would you tell us what happened?

18 Don't tell us your mental processes.

19 THE WITNESS: I'm sorry.

20 THE COURT: You were at your home. When was  
21 this, a day or two after, a week or two after the  
22 last incident, or how long after?

23 THE WITNESS: This is a week later, after  
24 I spoke to the FBI. I was in my home and a friend  
25 of mine from my place came in my house, spoke to my

DiPalma-direct

wife and said--

MR. LA ROSSA: Objection.

THE COURT: Sustained.

Q Mr. DiPalma, what happened? What did you do then?

A What did I do? I went downstairs, went to the corner and seen Ciro Riccardi there.

Q How do you know it was Ciro Riccardi?

A Well, because he threw a left hand in my face, a right in my stomach, another right in my chest, and if it wasn't for this particular party that was there, I probably would have been worse off.

Q Mr. DiPalma, before this altercation you just described, did you have an opportunity to see who that man was?

A Yes, sir.

Q Can you identify who that man was?

A Yes, sir.

Q Is he in court?

A Yes.

Q Who is he?

A Right there (indicating).

Q Which man is that, please?

A Pardon me?



DiPalma-direct

1  
2 Q Which man?

3 A The second man (indicating).

4 THE COURT: The second man, with the suit on  
5 and the tie? Mr. Riccardi?

6 THE WITNESS: Yes.

7 THE COURT: He's the one who hit you?

8 THE WITNESS: Yes, sir.

9 THE COURT: How many times did he hit you?

10 MR. LA ROSSA: I'm sorry to interrupt the  
11 Court's questioning. I think the witness said this  
12 was one week after he spoke to the FBI.

13 THE COURT: That's right.

14 MR. LA ROSSA: I now move to exclude the  
15 testimony based upon the fact it's outside the  
16 parameters of the indictment.

17 THE COURT: Motion denied.

18 MR. NAFTALIS: Thank you, your Honor.

19 Q Mr. DiPalma, what did you do next?

20 A Well, I was laying up against the car and my  
21 wife came down with a stick.

22 Q Then what happened?

23 A My two children came down with my wife and  
24 they ran over to me and my wife was going--wanted to hit him  
25 with the stick, but he went away.

DiPalma-direct

Q What did you do next?

A I called up--my wife called up Art Ruffels.

Q By Art Ruffels--

A Meaning the FBI.

Q Mr. DiPalma, I take it he's the agent you dealt with?

A Yes, sir, he is the agent I dealt with.

Q Mr. DiPalma, did there come a time that you spoke to Mr. Ruffels about this altercation?

A Yes, sir.

Q Did you give him a statement?

A Yes, sir, I did.

Q Mr. DiPalma, you testified earlier to another meeting, a meeting in which you wore a body microphone; is that correct?

A Yes, sir.

Q Mr. DiPalma, would you please describe to the Court and the members of the jury exactly how that happened.

A Well, Art Ruffels came to my house the next day and we went up to New York and we took pictures of the beating that I had and from there we spoke a little bit about what happened to me, and then from there we went down to the Federal Building.

At the time, I think the prosecutor's name



DiPalma-direct

1  
2 was Murphy. That's who I spoke to.

3 Q Mr. DiPalma, I'm referring to the time when  
4 you wore the body mike. Would you please tell us what  
5 happened.

6 A That's what I'm getting to.

7 We went down there and then there was a day  
8 or two later that I went with the FBI. I met them, I think,  
9 on a Wednesday or Thursday. I think it was a Thursday or  
10 a Friday, to be exact, a Friday. Yes, it was Friday. And  
11 I went to the FBI's office up in New York City and an agent  
12 put on the radio (indicating), the tape.

13 Q Where were you wearing it?

14 A Right here on my stomach.

15 Q Was it under clothes?

16 A The piece that you talk through I guess was  
17 here (indicating), and the radio was in my back pocket.  
18 It was a piece in my back pocket connected with tape along  
19 the back around to the stomach, like that (indicating).

20 Q What happened next?

21 A I met with the gentleman sitting there with  
22 the brown suit, right there (indicating). I met with him.  
23 As soon as I got--the FBI drove me down to Avenue X where  
24 the candy store was. That's where I met that man right  
25 there (indicating). I went over to that man (indicating)

DiPalma-direct

1  
2 and asked for Ciro Riccardo, and he said to me that Ciro  
3 wasn't going to be there.

4 Q Mr. DiPalma, how did you know to speak to that  
5 man?

6 A I met that man once before. That was at the  
7 cemetery in the car with Ciro.

8 Q Is that the time you testified earlier when  
9 you were pulled over?

10 A Yes.

11 MR. NEWMAN: I object to a recap of the  
12 testimony.

13 THE COURT: Yes, sustained.

14 Q What happened next, Mr. DiPalma?

15 A I insist on seeing him, and before I seen him  
16 I did mention--

17 MR. NEWMAN: Your Honor, I object to this  
18 conversation on the ground it's outside the paramet-  
19 ers of the indictment and at a time convenient for  
20 your Honor and for the jury, I would like to make  
21 an extended argument in the absence of the jury,  
22 Judge.

23 THE COURT: We'll take a five-minute after-  
24 noon recess.

25 Don't discuss the case.



DiPalma-direct

(Jury leaves the courtroom.)

(The following was heard out of the presence of the jury.)

MR. NEWMAN: Your Honor--

THE COURT: Wait a minute. This conversation that you are about to recite with the man in the brown suit, as you describe him, is that the one that was fully recorded here on the tape?

THE WITNESS: Yes, sir.

THE COURT: What's your argument?

MR. NEWMAN: Might we have the witness excluded?

THE COURT: You may be excused.

(The witness leaves the courtroom.)

MR. NEWMAN: Maybe you're going to tell me I'm premature.

Your Honor, my argument is based on the following: If we take the testimony, so far adduced from this witness, concerning my client, during the paramaters of the indictment, we have, if I understood him correctly, Judge, the conversation that allegedly took place in the car outside the cemetery where he purports to say my client said two lines. This is the basis of my client's

DiPalma-direct

1  
2 involvement at this particular moment in the indict-  
3 ment. As I read the indictment between May 1st and  
4 May 18th, and based further on Mr. Naftalis's  
5 opening.

6 Now, this conversation of June 2nd, Judge,  
7 if I understand it correctly, is not being offered  
8 where there's already a prima facie case against  
9 the defendant to show almost like knowledge and  
10 intent and prior or subsequent similar acts. As  
11 I understand it, it's really being offered for the  
12 substance, to show my client's involvement in this  
13 particular indictment.

14 Then I say to your Honor, most respectfully,  
15 that the time element becomes significant. My client  
16 is being tried for a crime that allegedly took place  
17 by the Government's own parameters, the grand jury  
18 and the indictment and their opening, between May  
19 2nd, May 1st and May 18th. They're now offering the  
20 conversation--

21 THE COURT: No, no. Between May 1, 1971, and  
22 May 18, 1972, a period of twelve and a half months,  
23 both dates being approximate and inclusive. Don't  
24 get it confused. We're not talking about a two-  
25 week period where you might have, the way I see the  
testimony, that is involved here, and with that



DiPalma-direct

1 language, "both dates being approximate and inclus-  
2 ive," two weeks away from one of the end dates, but  
3 anyway, go ahead.  
4

5 MR. NEWMAN: That's right. Insofar as my  
6 client is concerned, none of the activities except  
7 the alleged meeting at the cemetery took place in  
8 that period of time.

9 THE COURT: That may well be part of--  
10 I thought originally that the tape was being offered  
11 solely for admissions, but based on the testimony  
12 adduced, I'm not so sure that the tape isn't going  
13 to be offered. I don't know. At least I heard so  
14 far it may be offered as part of the offense.

15 MR. NEWMAN: That's the point I'm trying to  
16 make, just the point I'm trying to make, with an  
17 indictment that speaks within a period of time.

18 THE COURT: "both dates being approximate  
19 and inclusive."

20 MR. NEWMAN: Look at the nature of the second  
21 charge. It is implied or expressed threats to  
22 collect money. At this point, this witness, DiPalma  
23 is already working with the FBI backup by the FBI  
24 and is wearing a recorder.

25 THE COURT: So?

DiPalma-direct

MR. NEWMAN: What I'm trying to say--

THE COURT: If they tried to extort, collect the money on June 2nd by extortionate means-- if he used extortionate means on that date, it may well be within the offense.

MR. NEWMAN: That's my point. You say it may well be. I'm contending, by virtue of the fact--

THE COURT: Apparently the offense didn't stop the day they went up and banged on the door. A week later they beat him up, or one of them beat him up.

MR. NEWMAN: That's the point I'm making.

THE COURT: A week after, apparently, there's some conversation on a tape which we haven't heard yet.

MR. NEWMAN: The allegations vis-a-vis all the acts do not apply to my client nor the evidence. That's the point I'm trying to make.

THE COURT: I don't know what the tape says. Maybe in the tape your client makes the statements that runs something like this: "I've told you for a year now I was going to beat the Jesus out of you if you didn't pay up, and I reiterate it now." Then where are you?

MR. NEWMAN: Then I'd have a problem, but



1        what I'm contending, Judge, I don't have that problem.

2                THE COURT: I don't know.

3                MR. NEWMAN: Then I would ask your Honor to  
4 do something else, if you will. I would ask your  
5 Honor to look at the grand jury testimony that's  
6 been adduced here for this reason, Judge: Maybe  
7 this is premature, but if you would look at the grand  
8 jury testimony, which I assume is the grand jury  
9 testimony we've been furnished as 3500 material, of  
10 Mr. DiPalma, I would respectfully ask your Honor  
11 to dismiss as far as Mr. Gigliotti is concerned on  
12 the grounds, Judge, that no evidence was adduced in  
13 that grand jury against Mr. Gigliotti; none.

14                I submit to your Honor Mr. Gigliotti has a  
15 Sixth Amendment right to be indicted by a grand  
16 jury which has evidence against him.

17                THE COURT: This kind of motion you make at  
18 the end of the plaintiff's case, not during the  
19 course of the trial.

20                MR. NEWMAN: I think I can make it at this  
21 time with the witness--based on the stand, on the  
22 3500 material.

23                THE COURT: You can't. You have to wait until  
24 all the testimony comes in.

25                MR. NEWMAN: As far as the grand jury testimony  
is concerned, we can have a statement right now from

1 Mr. Naftalis as to whether we have it all.

2 THE COURT: Mr. Naftalis, if he thought the  
3 way you're thinking, he would have withdrawn the  
4 indictment against your client at the outset of  
5 the case.

6 MR. NEWMAN: Not necessarily. A different  
7 Assistant put it in to the grand jury.

8 MR. NAFTALIS: I participated in the ending  
9 part of the grand jury.

10 THE COURT: Mr. Naftalis is an experienced  
11 attorney. I think he knows what he's doing.

12 MR. NEWMAN: I'm sure he does.

13 THE COURT: You can't assume because we're  
14 on the second or third witness in the case, because  
15 your client hasn't been up to his eyeballs in this  
16 thing today, that you're necessarily home free.

17 MR. NEWMAN: I didn't assume I'm home free.  
18 But I'm trying to indicate to your Honor there may  
19 be a serious question as to whether this evidence  
20 is admissible. While I'm on my feet I want to  
21 suggest, based on the grand jury testimony I have,  
22 if in fact he hasn't been indicted, I don't think  
23 it's ever too early to raise that issue. I'm duty  
24 bound to raise it on his behalf, the minute I become  
25 aware of it. I have the grand jury testimony.



1 I don't see him mentioned in it.

2 THE COURT: Is that the fact?

3 MR. NAFTALIS: He's identified as an unknown  
4 male during the course of that. There's a grand  
5 jury photograph of Mr. Gigliotti identified by  
6 Mr. DiPalma in the course of it as being the other  
7 man present at the meeting. That was before the  
8 grand jury. The license plate as well, license plate  
9 identification before the grand jury.

10 THE COURT: I haven't read the substance of  
11 what was said in this tape. I'm mindful of Mr.  
12 LaRossa's--

13 MR. LA ROSSA: Might I be excused for a minute?

14 THE COURT: Yes. Do you want us to continue  
15 without your presence?

16 MR. LA ROSSA: Yes.

17 THE COURT: I understand what you're saying,  
18 but I think you're a little early.

19 MR. NEWMAN: O.K., I wanted to get it on the  
20 record, vis-a-vis the grand jury testimony, particu-  
21 larly Judge. I want to find out from Mr. Naftalis  
22 if there's any other grand jury testimony.

23 MR. NAFTALIS: From other witnesses who  
24 haven't testified.

25 MR. NEWMAN: Obviously. I'm asking about  
Mr. DiPalma. I would like him to be submitted to

1 your Honor for consideration of that motion whenever  
2 you feel it's propitious.

3 MR. NAFTALIS: All grand jury testimony is  
4 submitted to the defense as 3500 material.

5 THE COURT: Give it to me.

6 MR. NAFTALIS: Do you want it now?

7 THE COURT: How long will you be further with  
8 this witness?

9 MR. NAFTALIS: My examination of him, perhaps  
10 another five minutes or so, your Honor.

11 THE COURT: I'll take a look at it then.

12 (Said documents handed to the Court by  
13 Mr. Naftalis.)

14 (Pause)

15 MR. NAFTALIS: The agent has arrived to fix  
16 the tape recorder.

17 MR. LA ROSSA: We're not going to interrupt  
18 the direct testimony of this witness.

19 THE COURT: He'll be five minutes more with  
20 this witness.

21 MR. LA ROSSA: I'm sorry. He'll only be five  
22 minutes more if he can fix it in five minutes.

23 I'm sorry, I didn't understand.

24 (Pause)

25 THE COURT: We'll take a recess.

(Recess)



1 THE COURT: Let's get everybody back. We'll  
2 finish up with this witness and then we'll play the  
3 tape.

4 (The jury enters the courtroom.)

5 THE COURT: You'll be pleased to know, ladies  
6 and gentlemen, in the interim we had one of the  
7 Government technicians work on the problem, and at  
8 least my headset seems to be working. They tried  
9 some of yours and it seems to be working. We'll  
10 have the tape shortly. Not now, not yet, but shortly.

11 MR. NAFTALIS: Your Honor, I will recall  
12 Mr. DiPalma, and proceed with the remaining part of  
13 the direct examination.

14 (Frank DiPalma re-enters the courtroom and  
15 resumes the stand.)

16 DIRECT EXAMINATION (CONTINUED)

17 BY MR. NAFTALIS:

18 MR. NAFTALIS: Mr. Reporter, I beg your  
19 indulgence. Would you please read the last question  
20 and and answer.

21 (Last question and answer read by the reporter.)

22 THE COURT: Pursue what happened on June 2nd.

23 MR. NEWMAN: I trust what was raised in the  
24 absence of the jury is overruled.

25 THE COURT: Yes.

DiPalma-direct

MR. NAFTALIS: Thank you, your Honor.

Q Mr. DiPalma, referring back to the day that we began your examination, about the day that you were wearing the body microphone for the FBI, Mr. DiPalma, you testified that you arrived there at the FBI, or they brought you there. Who, if anyone, did you see there when you arrived?

A I seen Gigliotti.

Q Which one is that, please?

A (Indicating) The brown suit at the end of the table.

Q What if anything did you say to him or did he say to you at the time?

A I said to him, "Where is Ciro?"

Q What if anything did he say to you?

A He said he wasn't here, and he said, "You could see me."

Q What did you say?

A I said I wanted to see him. I insisted on him. I didn't want to see him, I wanted to see Ciro.

Q What happened then?

A When I spoke to Gigliotti and mentioned I didn't want any repercussions to happen to me again, he said there wouldn't be, and after that he said, "Wait here."



DiPalma-direct

1 I says, "I don't want to wait here."  
2

3 He says, "I'll drive you there."

4 I said I didn't want to be driven anywhere.

5 Then he told me I'll meet him by the  
6 furniture store.

7 Q Did there come a time that you went to the  
8 store?

9 A Yes, I walked and he left, and when I went to  
10 the furniture store, I was outside--as a matter of fact,  
11 I was right in front of Neil's Delicatessen. That's where  
12 I met Ciro.

13 Q Did there come a time Ciro appeared?

14 A Ciro appeared with the car and he got out of  
15 the car.

16 Q Did you see the car?

17 A No, I didn't; I didn't take notice of the car.  
18 He did get out of the car, though.

19 Q What if anything did you say to him or did he  
20 say to you?

21 A Well, the first thing he did was he checked  
22 my chest and down here (indicating), around here. He didn't  
23 find anything. The second thing we did was we walked up  
24 the street and we started to talk.

25 Q What did you talk about?

DiPalma-direct

1  
2 A About the money situation that I owed him,  
3 about--

4 MR. LA ROSSA: I object to what they talked  
5 about. I think the conversation should be the best  
6 recollection--

7 THE COURT: Yes, give us your best recollec-  
8 tion.

9 A (Continuing) We spoke about me not paying the  
10 money on time. We spoke about I owed out a lot of money in  
11 the place and that I was not a man.

12 We spoke about me not being a good father  
13 because I didn't pay. I had to pay him, and a few other  
14 things that I don't recall right now.

15 Q Mr. DiPalma, you say that you spoke with him  
16 about the money you hadn't paid on time. What money are you  
17 referring to?

18 A Talking about the \$125 a week.

19 Q Mr. DiPalma, you testified earlier what you  
20 termed yourself as being a bookmaker. You remember that  
21 part of your testimony?

22 A Yes.

23 Q Mr. DiPalma, did you ever take a bet from  
24 Ciro Riccardi?

25 A No, sir.



DiPalma-direct

Q Did there ever come a time you took a bet from Ronald Gigliotti?

A No, sir.

Q Mr. DiPalma, did you ever lend any money to Ciro Ricciardi?

A No, sir.

Q Did you ever lend any money to Ronald Gigliotti?

A No, sir.

Q Mr. DiPalma, has there ever been a time that you've engaged in activity known as loan sharking?

A No, sir.

Q Has there ever been a time you have lent money out at interest to others?

A No, sir.

Q Mr. DiPalma, you testified earlier about the vig that you paid. You testified that you initially paid \$50 a week; is that correct?

A Yes, sir.

Q That after a period of time--

MR. LA ROSSA: I object to this.

THE COURT: Yes, this is repetition.

MR. NAFTALIS: I'm sorry. I'll get to my point.

DiPalma-direct

1  
2 Q Mr. DiPalma, I ask you to think for a few  
3 moments and tell the Court and the jury approximately how  
4 much you paid to Mr. Ciro Riccardi in vig payments over the  
5 period that you testified about.

6 A \$7,000.

7 Q In cash?

8 A Yes, sir.

9 Q Who did you pay that to?

10 A Ciro Riccardi.

11 Q What was the total amount of money you  
12 borrowed from him?

13 A \$3500.

14 MR. NAFTALIS: Your Honor, if I might just  
15 have a moment?

16 (Pause)

17 MR. NAFTALIS: No further questions, your  
18 Honor.

19 THE COURT: Gentlemen, we'll play the tape  
20 now if it's agreeable with you.

21 You may step down.

22 (Witness excused)

23 THE COURT: You'll be subject to recall  
24 tomorrow.

25 (Mr. DiPalma leaves the courtroom.)



1 THE COURT: Let's pass out the transcripts.  
2 Hopefully, it will work this time.

3 Ladies and gentlemen, the same cautionary  
4 instructions I gave you before with respect to the  
5 transcripts applies. Don't get ahead. Stay with  
6 the transcript and the tape as it's played and listen  
7 to the tape, because the tape is the evidence, not  
8 the transcript.

9 MR. NAFTALIS: Your Honor, we're going to  
10 request the agent retake the stand, since he is the  
11 witness.

12 (Mr. Ruffels resumed the stand.)

13 MR. NAFTALIS: Your Honor, again I'm going  
14 to beg the Court's indulgence. We use the signal  
15 by Mr. Ruffels to indicate when we believe the  
16 conversation begins, so that the jury can see if  
17 they can't all hear it.

18 (Tape begins to play in courtroom.)

19 (Tape completed playing.)

20 THE COURT: Ladies and gentlemen, we'll  
21 adjourn for the evening. I have a sentencing panel  
22 at 4:30. I have to stop now.

23 Don't discuss the case. Come back tomorrow  
24 morning again at a quarter to ten. Be prompt, and  
25 we'll start promptly at ten o'clock tomorrow morning.

MR. NAFTALIS: Could I collect the transcripts?

THE COURT: Don't leave without first handing over the transcripts to Mr. Naftalis.

(Mr. Naftalis collects the transcripts from the jury.)

THE COURT: Don't discuss the case. We'll see you tomorrow morning.

(The jury leaves the courtroom.)

(At 4:30 p.m. an adjournment was taken to Wednesday, May 21, 1975, at 10:00 a.m.)

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
:  
UNITED STATES OF AMERICA, :  
:  
-against- 75-CR-556  
:  
:  
CIRO R. RICCARDI :  
and RONALD GIGLIOTTI, :  
:  
Defendants. :  
-----X

United States Courthouse  
Brooklyn, New York

May 21, 1975  
10:00 o'clock A.M.

Before :

HONORABLE THOMAS C. PLATT, U.S.D.J.

JOSEPH BARBELLA  
OFFICIAL COURT REPORTER

## Appearances:

DAVID G. TRAGER, ESQ.  
United States Attorney  
for the Eastern District of New York

BY: A. NAFTALIS, ESQ.  
Assistant U.S. Attorney

JAMES LA ROSSA, ESQ.  
Attorney for Defendant Riccardi

GUSTAVE NEWMAN, ESQ.  
Attorney for Defendant Gigliotti



(Time noted 10:00 A.M.)

MR. NAFTALIS: Your Honor, before the jury comes in, I would like to handle a small problem that was raised yesterday.

THE COURT: All right.

MR. NAFTALIS: Mr. Newman, representing Mr. Gigliotti, raised the question of the evidence before the Grand Jury, and whether there was sufficient, or any at all evidence before the United States Grand Jury for the Eastern District of New York, who investigated this case concerning the defendant Gigliotti.

I'd like to handle this in two ways, and I promise to be brief. I draw the Court's and defense attention to the Grand Jury minutes dated June 13, 1972, a transcript in which Frank DiPalma was the Government witness in a presentation for the Government made by William T. Murphy of -- a Special Attorney of the Department of Justice.

And, your Honor, if I may, I ask you to direct your attention specifically to page 17 of that transcript, and, starting at approximately line 6 --

MR. NEWMAN: Would you bear with me for a moment?

MR. NAFTALIS: Surely. Page 17, line 6, where we start -- The previous answer is:

"I went to the luncheonette on Avenue X," he re-

1 74 cites.

2 The question is then:

3 "After you went to the luncheonette at Avenue X,  
4 were you met by anybody?

5 "Answer: Yes, I met another guy there.

6 "Question: Have you talked about that guy at  
7 all today? Is he one of the unknown persons you re-  
8 fer to in your answers, either the guy who used to get  
9 the money at the luncheonette, or either of the two men  
10 inside the cycle shop?"

11 The men had been referred to earlier in the testi-  
12 mony.

13 "Answer: No, he's not.

14 "Question: This is a new person?

15 "Answer: A new person.

16 "Question: Tell us, what did you say to him, and  
17 what did he say to you?

18 "Answer: He said, 'Do you have the money?'"

19 And then there is a statement that continues up  
20 to the top of the next page, and talks about going down  
21 to meet Zero. There's more testimony here about meeting  
22 in front of Neil's with Zero, and this other gentleman,  
23 your Honor, continuing on page 18 through 19.

24 I submit, your Honor, that this bears with Mr.  
25 DiPalma's testimony, and with the tape recording that



1 we heard in which the person has been identified as  
2 the defendant Gigliotti; and that this is Mr. Gigliotti  
3 that the witness DiPalma is referring.

4 Moreover, your Honor, after I left the courtroom  
5 yesterday, I spent a little time in the law library,  
6 and determined that it is essential for the Government  
7 in this case to look at the law. And the law, your  
8 Honor, in the specific case is Costello -- I am sorry --  
9 Costello versus the United States, 350 United States  
10 359, 1956. And I am now looking at page 363. If I may  
11 just quote in part, your Honor:

12 "If Indictments were to be held open to challenge  
13 on the grounds that there was inadequate or incompetent  
14 evidence before the Grand Jury, the resulting delay  
15 would be great indeed. The result of such a rule would  
16 be that before a trial on the merits, a defendant could  
17 always insist on the kind of preliminary trial to deter-  
18 mine the competency and adequacy of the evidence before  
19 the Grand Jury. This is not required by the Fifth  
20 Amendment. An Indictment returned by legally constituted  
21 and unbiased Grand Jury, like an information drawn by  
22 the Prosecutor, if valid on its face, is enough to call  
23 for trial of the charges on the merits. The Fifth Amend-  
24 ment requires nothing more."

25 That was Costello.

And, accordingly, there is Long versus the United States, 355 U. S. at 339. That's a '58 case.

And in the Second Circuit, your Honor, I have cited United States against Tane. That's at 329 F. 2d, at 848, a 1964 case.

And here I am quoting in part from page 853.

"A defendant has no right to have an Indictment dismissed merely because incompetent or inadequate evidence was presented to the Grand Jury."

There is also United States versus Kuska, 443 F. 2d., 1167. That's Second Circuit case, 1971.

Your Honor, I submit that there was evidence before the Grand Jury, as I have pointed out in this transcript, and that this evidence, the Government alleges, refers directly to the defendant Gigliotti.

Moreover, the Government contends that the law as stated by the Supreme Court and as stated by the Second Circuit indicates that there is sufficient evidence presently -- not presently -- sufficient evidence before the Grand Jury that we can go forward with this Indictment, and the defendants, in fact, have no basis to go forward unless they can indicate that there was not a legally constituted -- or unless they can show by evidence that this was a biased Grand Jury.

I submit to you that the Government contends this



1 77 was neither of the case.

2 Moreover, your HOnor, the Government would -- the  
3 Government would submit that this is an Indictment -- a  
4 valid Indictment, valid on its face, to the use the terminology of the Supreme Court in Costello. And on that  
5 basis the Court can consider and then deny the defense  
6 motion to dismiss the Indictment against the defendant  
7 Giggliotti in that it is not in keeping with the present  
8 status of the law and with respect to the question opened  
9 by Mr. Newman before the Court yesterday.

11 THE COURT: I ruled the motion is premature.

12 MR. NEWMAN: That's why I am not addressing myself to it, your Honor, until the end of the case. I  
13 would like to -- I would like the record to reflect that  
14 the Costello case deals with the hearsay question of an  
15 Agent taking the stand and testifying to what he was  
16 told by a witness. And I will --

18 THE COURT: The question here is whether the evidence is sufficient to hold Mr. Giggliotti at the end  
19 of the Government's case, on the grounds that he aided  
20 and abetted in this transaction.

22 Now, if, on all of the Government's evidence, it  
23 is sufficient to establish a prima facie case that he  
24 aided and abetted in this transaction, the case is going  
25 to go to the jury. If the case against him -- if there

1 78 isn't a case against Mr. Giggliotti, it will be dis-  
2 missed.

3 MR. NEWMAN: May I reserve all of this until the  
4 end of the Government's case?

5 THE COURT: Sure.

6 MR. NEWMAN: I will furnish authorities.

7 THE COURT: It is not that complex. At least it  
8 isn't complex in my mind, but it might be in your mind.

9 MR. NEWMAN: In any event, I will reserve my argu-  
10 ment for later. It is not a matter of acquiescence. I  
11 don't think that that is the status of the law in the  
12 Second Circuit. I think there are cases after Costello  
13 on the question.

14 THE COURT: I'm not talking about Costello. Es-  
15 sentially it's the same evidence that went before the  
16 Grand Jury that is before this Court in this trial, and  
17 the same question is going to be presented.

18 I have looked at the Grand Jury testimony. There  
19 is also the testimony about, "I'm going to put you in  
20 the hospital," in the presence of Mr. Gigliotti in a  
21 car. And then there is this testimony that the Prosecu-  
22 tion referred to on page 17. That's essentially the  
23 testimony.

24 Now, whether that constitutes an aiding and abet-  
25 ting, is going to be -- Whether it is sufficient to carry



1 79 out a prima facie case will be for me to determine. I  
2 haven't made up my mind. I am waiting for all of the  
3 evidence to be in.

4 MR. NEWMAN: All right. I disagree with your  
5 Honor's reasoning, and I will try to see if I have some  
6 eloquence to try to persuade you.

7 THE COURT: You have plenty of eloquence of per-  
8 suasion, but we will see.

9 All right.

10 (Whereupon, the jury entered the courtroom.)

11 THE COURT: Good morning, members of the jury,  
12 I am sorry we kept you waiting, but we had a couple of  
13 legal matters to attend to, and that's what held us up.

14 I think we are ready to proceed now.

15 All right, I guess we have Mr. Ruffels back on  
16 the stand.

17 MR. NAFTALIS: Yes, we do.

18 THE COURT: Do you have more questions of him?

19 MR. NAFTALIS: Just a few.

20 THE COURT: All right.

21 A R T H U R R U F F E L S , having previously been duly

22 Sworn, testified further as follows:

23 DIRECT EXAMINATION

24 BY MR. NAFTALIS: (continuing)

25 MR. NAFTALIS: I would like these marked for

1 80

Ruffels - direct

2 identification, and this marked for identification as  
3 well.

4 THE COURT: Two photographs, marked for identi-  
5 fication as Government Exhibits 5-A and 5-B.

\*\*\*\*

6 One document marked for identification as Govern-  
7 ment Exhibit 6.

\*\*\*

8 Q Special Agent Ruffels, yesterday we heard the  
9 tape recording, Government Exhibit in evidence number 3. Did  
10 you hear that tape recording as it was being played?

11 A Yes, I did.

12 Q Agent Ruffels, you testified earlier that you  
13 were present at this meeting on June 2nd?

14 A That's correct.

15 Q And you testified that you -- I believe that you  
16 saw certain persons present, did you not?

17 A Yes, I did.

18 Q Would you indicate again for the jury who those  
19 persons present at the meeting were?

20 A Yes. The victim, Frank DiPalma --

21 MR. LA ROSSA: Objection.

22 MR. NEWMAN: Objection. I move to strike.

23 THE COURT: Strike the word, "victim."

24 THE WITNESS: Frank DiPalma, Ciro Riccardi and  
25 Ronald Gigliotti.



Q I show you a series of photographs that are marked in as Government's Exhibit in evidence --

THE COURT: 2-A.

MR. NAFTALIS: As those 2-A?

Thank you.

Q Marked as 2-A -- Will you show --

A Do you want me to identify all of the photos?

Q First, what are they?

A These are the photographs taken by myself on June 2, 1972, from a surveillance vehicle situated within a few feet of the meeting between Frank DiPalma, Ciro Riccardi and Ronald Gigliotti.

Q Are those pictures -- those pictures, I take it, depict the meeting you just testified about concerning the tape?

A That's correct.

MR. NAFTALIS: Your Honor, these have already been admitted into evidence. I would like to show them to the jury, if I may.

THE COURT: All right.

MR. NEWMAN: May I look at them for one minutes, Judge?

THE COURT: Sure.

MR. NEWMAN: Thank you, your Honor.

Ruffels - direct

MR. NAFTALIS: Mr. La Rossa, do you want to --

Q Special Agent Ruffels, I would like to draw your attention to three of these photographs out of this series. I would like you to study each of them.

MR. LA ROSSA: Are they marked?

MR. NEWMAN: Can we have them identified for the record?

MR. LA ROSSA: We are not going to know which ones they are.

THE COURT: Maybe you better give them a separate letter.

MR. NAFTALIS: Okay. Mr. Clerk, will you please give these photos numbers under that series?

THE COURT: 2-B, C, and D.

THE CLERK: Number 2.

One photograph under series 2-A. This will be 2-B, 2-C and 2-D.

MR. NAFTALIS: Thank you.

Q All right. Agent Ruffels, I show you this photograph out of this Series 2-A, and this one is specifically marked photograph 2-B, and I ask you to study it for a moment, and if you can identify the persons in that photograph?

A Yes, I can.

(continued on next page.)



1

2

Q Would you please do so?

3

A Yes.

4

Q You may hold it so the jury may see.

5

A On the left is Frank DiPalma, and on the right is  
6 is Ciro Riccardi.

7

Q And this photograph marked as Government's  
8 Exhibit 2C in evidence.

9

A On the left is Ronald Gigliotti, and on the  
10 right is Frank DiPalma.

11

Q And this third photograph marked as  
12 Government's Exhibit 2D?

13

A Yes. New York license plate OK2271, which was  
14 listed to Ronald --

15

MR. NEWMAN: I object to what it is listed to.

16

THE COURT: Sustained.

17

Q Special Agent Ruffels, did there come a time  
18 that you were able to find out where plate OK2271, New York,  
19 was registered?

20

A Yes, sir.

21

MR. NEWMAN: I object. I am sorry.

22

THE COURT: You can answer yes or no.

23

MR. NEWMAN: I am sorry. I anticipated, Judge.  
24 I apologize.

25

THE COURT: He can't go beyond that.

1  
2 Q Did there come a time when you were able to  
3 determine who this was registered to?

4 THE COURT: Yes or no?

5 THE WITNESS: Yes.

6 Q And as a consequence of your check, did you --  
7 were you able to determine who that person was?

8 A Yes.

9 THE COURT: Yes or no.

10 Q And who was that person?

11 MR. NEWMAN: Objection.

12 THE COURT: Sustained.

13 MR. NEWMAN: May we have a side bar for just a  
14 minute?

15 THE COURT: It is not necessary.

16 MR. NEWMAN: Okay. I thought maybe I can save  
17 some difficulty, but -- all right.

18 THE COURT: If you want to make some sort of a --

19 MR. NEWMAN: No. I will withdraw my generosity.  
20 It was a fleeting --

21 MR. NAFTALIS: Your Honor, these were marked  
22 for identification. They should be in evidence.

23 THE COURT: Yes, they are in evidence.

24 THE CLERK: Government Exhibit 2B, 2C, 2D  
25 received in evidence.



(So marked.)

Q Special Agent Ruffels, yesterday you testified on or about the 30th of May, 1972, you spoke on the telephone with Mrs. Joan DiPalma; is that correct? On or about the 30th of May or about --

A Yes.

Q And as a consequence of that conversation with Mrs. DiPalma, what, if anything, did you do?

A I conducted an interview on the 30th with Mr. DiPalma and Mrs. DiPalma, and I further photographed Mr. DiPalma.

Q Special Agent Ruffels, I show you these two photographs marked Government's Exhibit 5A and 5B for identification. I ask you if you can identify those photographs.

A Yes, I can.

Q Would you identify those photographs?

THE COURT: Are they the ones you took that you just referred to?

THE WITNESS: Yes. These are.

THE COURT: Wait a minute. Don't go any further. You'd better show them to your adversary.

MR. NAFTALIS: I am sorry.

THE COURT: You'd better show them to your

adversary before something comes out that they may not want.

Q These, Agent Ruffels, I take it, are the photographs that you took?

A That's correct.

MR. NAFTALIS: Agent Ruffels, I have no further questions.

MR. LA ROSSA: May I proceed?

THE COURT: Would you like to offer those photographs?

MR. NAFTALIS: Excuse me.

THE COURT: Would you like to offer those photographs?

MR. NAFTALIS: Oh, I am sorry, your Honor.

Your Honor, I move that these photographs be admitted into evidence.

MR. LA ROSSA: No objection.

MR. NEWMAN: Judge, I object on the grounds that they are no -- there is no connection between what is depicted on those photographs, the dates that they were allegedly taken, and my particular client. There is no connection between my client and these photographs. And I say that they are not relevant as to him.



1  
2 THE COURT: Well, that --

3 MR. LA ROSSA: I object also on the ground  
4 that it's outside the scope, but I am not doing that  
5 every time.

6 THE COURT: You'd better do it.

7 MR. LA ROSSA: Well, I will do it again.

8 THE COURT: I will rule on your objection first.  
9 Your objection is overruled.

10 Your objection will be ruled on by my ultimate  
11 determination of the question that we discussed  
12 already. So I will now allow the photographs in, if  
13 that is the only objection.

14 MR. NAFTALIS: Thank you.

15 THE CLERK: 5A, 5B received in evidence.

16 THE COURT: May I see them, please?

17 MR. NAFTALIS: Surely, your Honor.

18 MR. NEWMAN: What were those marked?

19 MR. NAFTALIS: 5A and 5B.

20 THE CLERK: 5A and 5B.

21 MR. LA ROSSA: Are you finished? I am sorry.

22 MR. NAFTALIS: Yes.

23 MR. LA ROSSA: Could I have the pictures?

24 MR. NAFTALIS: Which pictures?

25 MR. LA ROSSA: All of them.

1  
2 Thank you.

3 CROSS-EXAMINATION

4 BY MR. LA ROSSA:

5 Q Mr. Naftalis has been addressing you as  
6 Special Agent. Is that your title, sir?

7 A That is correct, sir.

8 Q Are there any agents of the Federal Bureau of  
9 Investigation that do not have the title, Special Agent?

10 A No.

11 Q Do you recall meeting a detective by the name  
12 of Oleska?

13 A Yes.

14 Q Do you remember showing him a picture?

15 A Yes.

16 Q Did you hear him testify here in court that  
17 you showed him a picture?

18 A Yes.

19 Q Did you hear him testify that he couldn't  
20 identify the individual in that picture?

21 MR. NAFTALIS: Your Honor, I object.

22 THE COURT: No. Overruled.

23 THE WITNESS: Yes.

24 Q Was this the picture, sir -- and I show you  
25 Government's Exhibit 2B in evidence -- that you showed him?



1  
2 A Yes.

3 Q Will you tell us who is in that picture and  
4 tell the jury, please?

5 A On the right, Frank DiPalma, and on the left,  
6 sir, Ciro Riccardi.

7 Q Now, at the time that you showed the detective  
8 that picture, he certainly knew who Frank DiPalma was, didn't  
9 he?

10 A Yes.

11 Q Did he tell you that Frank DiPalma was one of  
12 the individuals in that picture?

13 MR. NAFTALIS: Objection, your Honor. Hearsay.

14 THE COURT: No. Overruled. Overruled.

15 Q Sir?

16 A Yes.

17 Q So, in effect, he couldn't identify Ciro  
18 Riccardi; isn't that right?

19 A That is correct.

20 Q Now, sir, how many years have you been a  
21 Special Agent for the Federal Bureau of Investigation?

22 A Four years, eight months.

23 Q Now, sir, prior to your appointment as a  
24 Special Agent, did you go to a school in Quantico, Virginia?

25 A Yes, sir.

1  
2 Q And in that school were you taught certain  
3 subjects?

4 A Yes.

5 Q WERE one of these an interview and how it should  
6 be conducted?

7 A Yes.

8 Q And were you taught at Quantico, Virginia, that  
9 an interview that you take should be as exact as possible?

10 A Yes.

11 Q And should be put into the form of a writing as  
12 quickly as you could?

13 A Yes.

14 Q And do you recall that those writings are to be  
15 on a 302 report?

16 A Yes.

17 Q Now, did you take many -- withdraw the question.  
18 Did you conduct many interviews of Mr. DiPalma?

19 A No.

20 Q How many times were you in Mr. DiPalma's presence  
21 when you asked him questions and he gave you answers?

22 A I believe three times.

23 Q On those three occasions, sir, did you make out  
24 what is called a 302 report?

25 A I believe I did.



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Q Is there any question in your mind that you did?

A I will have to refresh my memory.

Q Please do.

A Yes, I did.

Q Three times?

A That's correct, sir.

Q Now, sir, will you tell me whether or not you have a duty to report to your superiors -- to make a report to your superiors any time you find evidence that someone has committed a crime?

A Are you referring to a federal crime?

Q Let's start with a federal crime first.

A Yes.

Q You must report that to your superior; is that correct?

A I must make a report, yes.

Q Okay. Now, in addition to that, let's assume you come upon evidence of a crime that is not federal, but state in nature. Do you feel as a peace officer, as a Special Agent of the Federal Bureau of Investigation, you have the duty to make a report with respect to that crime to someone?

A Yes.

1  
2 Q Now, you have had an opportunity to review all  
3 your reports in this case, haven't you, before you took the  
4 witness stand?

5 A As well as I can recall, yes.

6 Q You certainly wrote them over the last few  
7 days, haven't you? Did you read them before you took the  
8 stand?

9 A Yes.

10 Q Do you see anything in those three reports  
11 about Mr. DiPalma being a bookmaker?

12 A In my report?

13 Q Yes, your reports.

14 A No.

15 Q When for the first time did you find out he was  
16 a bookmaker?

17 A At the Eastern District Strike Force --

18 Q When?

19 A (Continuing) Office.

20 THE COURT: He asked when.

21 Q When, sir?

22 A At the time of the indictment.

23 Q Did you make out a report? You, personally?

24 A No, I didn't.

25 Q That you found out that the man was a bookmaker?



1  
2 A No, I did not. Well, let me clarify my answer.

3 Q Please do.

4 A As he explained it, he was not a bookmaker.

5 Q As he explained it to you?

6 A That's correct.

7 Q Did he tell you --

8 A There was no -- excuse me.

9 Q I am sorry.

10 A There was no evidence from what he told me to  
11 believe that a crime had been committed against the United  
12 States in the form of bookmaking.

13 Q Let me ask you this: Did he tell you --  
14 withdraw the question.

15 Were you here when he testified?

16 A Yes.

17 Q Did he tell you exactly what he told the  
18 Court and jury?

19 A As I -- to the best of my recollection, he  
20 said that he took bets and went down to the OTB Office on  
21 Avenue X and placed the bets, which does not constitute a  
22 violation of federal law. He placed bets at the racetrack  
23 for friends, which does not constitute a violation of  
24 federal law.

25 Q Are you finished?

1  
2 A And, to the best of my recollection, that is  
3 -- as I understood it, Frank explained that he gave the  
4 impression to people around him or his co-workers that he was  
5 in fact a bookmaker, but that in fact he was not a bookmaker.  
6 So, therefore, in reply to your question -- your original  
7 question, there did not in my opinion seem to be evidence of  
8 a crime being committed against the United States. I, there-  
9 fore, did not put that in writing.

10 Q Did he tell you that he would take bets from  
11 third parties, make a determination on whether or not he  
12 thought that the bet was a good bet or not, and if he thought  
13 the horse couldn't win, he would hold the bet himself, and if  
14 he thought the horse might win, he would bet it at the window?  
15 Did he tell you that?

16 A I don't remember him telling me that.

17 Q Well, let me ask you this: If someone takes  
18 bets from third parties and decides whether to hedge some of  
19 them off, as he said, or hold them himself, is that bookmaking?

20 A Yes.

21 Q Now, I ask you again, sir, did you know  
22 yesterday that the man was a bookmaker for the first time  
23 when you heard him tell us on the stand?

24 A Yes.

25 Q So, in other words, he never told you prior to



1  
2 yesterday when you heard him testify on the stand that he  
3 took bets himself; is that right?

4 A That is correct.

5 Q Do you know whether he told anyone else in the  
6 United States Attorney's Office or the FBI that he actually  
7 took bets?

8 A I don't know.

9 THE COURT: You mean by taking bets in the  
10 hedging sense?

11 MR. LA ROSSA: I am talking about taking bets  
12 as the bookmaker.

13 THE WITNESS: Yes.

14 THE COURT: Because he and DiPalma agreed that  
15 he picked up bets from other people and placed them  
16 for other bets.

17 MR. LA ROSSA: Yes, sir. But I am adding the  
18 extra ingredient, at the time he keeps the bets.

19 THE COURT: I understand.

20 Q Do you know whether or not he told anyone else  
21 that?

22 A Sir, I think I answered that question. Would  
23 you read that back?

24 Q No. I didn't ask you what he told you. I  
25 said to you, do you know whether he told anyone else?

1  
2 MR. NAFTALIS: Objection. That's hearsay.

3 THE COURT: No. The question is, do you know  
4 whether or not he told anyone else?

5 I will allow it.

6 Q Prior to yesterday.

7 THE COURT: I think he answered, "No." But I  
8 will allow it.

9 THE WITNESS: Sir, to the best of my ability, I  
10 thought I answered the question and I thought the  
11 answer was, "No."

12 Q Now, you told us that the first time you found  
13 out about this was the day of the arraignment?

14 THE COURT: The day of the indictment.

15 Q Of the indictment, did you say, sir?

16 A Yes. I said, "indictment."

17 Q Okay. Now, where did you hear that the first  
18 time?

19 A In the Eastern District Strike Force office.

20 Q Who told you? Mr. DiPalma?

21 A Yes, sir.

22 Q At that time did you question him about it?

23 A No, I didn't.

24 Q You just listened to his story?

25 A That's right.



1  
2 Q Did you ask him at that time for copies of his  
3 tax returns?

4 A No, I didn't.

5 Q Have you ever asked him for copies of his tax  
6 returns?

7 A No, I haven't.

8 Q Have you ever asked him whether he ever filed  
9 a tax return?

10 MR. NAFTALIS: Objection, your Honor.

11 THE COURT: No, I will allow it.

12 THE WITNESS: No, I haven't.

13 MR. LA ROSSA: I have nothing further.

14 CROSS-EXAMINATION

15 BY MR. NEWMAN:

16 MR. NEWMAN: Will you bear with me for a  
17 moment, your Honor?

18 Q Mr. Ruffels, on June 2, 1972, you told us  
19 about doing some surveillance of Frank DiPalma?

20 A Correct, sir.

21 Q During all the time that Mr. DiPalma was in  
22 that area of the luncheonette and the area that he walked  
23 to from the luncheonette, did you have him under observation?

24 A During the entire time?

25 Q Yes.

1  
2 A No.

3 Q Do you know how -- withdrawn.  
4 Did you see him arrive at the location?

5 A Yes.

6 Q Did you see him leave the location?

7 A Yes.

8 Q How long a period of time elapsed between the  
9 time he arrived at the location and the time he left the  
10 location?

11 A There were two locations, sir. Which location?

12 Q All right. The first location in front of the  
13 luncheonette, I think it was.

14 A Frank DiPalma approached the luncheonette on  
15 Avenue X across the street from the Chinese restaurant at  
16 2:56 p.m on June 2, 1972, and he left the luncheonette at  
17 3:03 p.m.

18 Q And did you observe him as he was leaving and  
19 where he went during the period that he traveled?

20 A Yes.

21  
22 (continued next page)  
23  
24  
25



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TIR3

1 99

Ruffels - cross/Newman

2 Q Approximately how long did that take?

3 A That took approximately eleven minutes.

4 Q Did he do this on foot, or in a vehicle?

5 A On foot.

6 Q And did you see him arrive at the second loca-

7 tion?

8 A Yes, I did.

9 Q And did you observe him throughout the period of  
10 time that he was at this second location?

11 A Not the entire -- He was not under physical sur-  
12 veillance during the entire time of the second meeting.

13 Q Did you see him arrive at the second location?

14 A Yes, I did.

15 Q Did you see him leave the second location?

16 A Yes, I did.

17 Q Do you know how much time elapsed between the  
18 time he arrived and the time he left the second location?

19 A I would have to refresh my memory with my surveil-  
20 lance log.

21 MR. NEWMAN: With the Court's permission, may he  
22 refresh his recollection?

23 THE COURT: Yes.

24 THE WITNESS: I don't have my surveillance log  
25 with me.

2 MR. NEWMAN: Okay.

3 THE COURT: Is it at your office?

4 THE WITNESS: It is at my office. But I will  
5 be happy to --

6 MR. NEWMAN: Pardon me. With your Honor's per-  
7 mission, may I have the opportunity, if I so desire, to  
8 recall him after he is able to obtain those records?

9 THE COURT: Yes, surely.

10 Q During this interval from the time he arrived at  
11 the second location, and the time he left, can you, as you  
12 sit here now, give me an estimate of approximately how long  
13 a period of time he was not under surveillance?

14 A Probably six to seven minutes.

15 Q And that, Mr. Ruffels, was during the period of  
16 the second meeting?

17 A Yes, that's correct.

18 Q During this entire time that you conducted this  
19 surveillance, you had this camera with you, right?

20 A Yes.

21 Q And you took these pictures which have been of-  
22 fered into evidence, I believe, collectively as an Exhibit,  
23 and some of them have been marked separately; is that right?

24 A Yes.

25 Q And you were at a vantage point, or a place where



2 you were able to take these photographs; is that right?

3 A Yes.

4 Q And that clearly was one of the functions to  
5 corroborate this meeting, and to identify, if possible, the  
6 participants in the meeting?

7 A Correct.

8 Q So is it part and parcel of your training that  
9 Mr. LaRossa asked you about, that it was important to you, was  
10 it not, as an investigative tool, to take these pictures; is  
11 that right?

12 A Correct.

13 Q Now, there came a time in or about June 2nd that  
14 -- and stop me if I am wrong -- I think you said you put the  
15 tape on Mr. DiPalma; is that right?

16 A Correct. I am sorry, sir. No, I did not put  
17 a tape on Mr. DiPalma.

18 Q Were you present when the tape was put on him?

19 A No tape was ever put on him.

20 Q I am sorry. I am sorry. Is it the word tape  
21 that is giving you the problem? The transmitter. Would that  
22 -- If I substituted the word transmitter for tape, would that  
23 be helpful?

24 A Yes.

25 Q All right. Taking out the word tape, and putting

2 in "transmitter," did you put the transmitter on him?

3 A Yes.

4 Q Prior to that, did you give him instructions as  
5 to how to use the transmitter?

6 A Yes.

7 Q By the way, did this transmitter have an off and  
8 on switch?

9 A It had one, yes.

10 Q Did you show him, Mr. DiPalma, how to use the  
11 on and off switch?

12 A Yes.

13 Q And that on and off switch was under his control,  
14 obviously, as he wore this transmitter; is that right?

15 A Yes.

16 Q Now, after the transmitter was placed on him or  
17 -- Withdrawn.

18 You were conducting an investigation at this time  
19 of what you considered to be loansharking; is that correct?

20 A Correct.

21 Q And as part of your training in Quantico that Mr.  
22 LaRossa asked you about, you were instructed as to the differ-  
23 ent elements of Federal crimes?

24 A Correct.

25 Q And you know what is necessary -- what is necessary



2 by way of proof and information in order to establish Federal  
3 crimes; is that right?

4 A Correct.

5 Q And when you provided this transmitter to Mr.  
6 DiPalma, did you give him any instructions as to what type of  
7 conversations he should attempt to elicit from anybody he spoke  
8 to?

9 A Yes.

10 Q And as part and parcel of those instructions, did  
11 you tell him that it was important that if the conversation  
12 involving shylocking -- to get some discussions about the word  
13 vig or vigorish or interest?

14 A I probably did.

15 Q Did you tell him as part and parcel of it also  
16 to see if he could steam up anybody he was talking to, to see  
17 if he could get them angry enough to make any threats to him?

18 A I don't think so.

19 Q Now, there came a time, I think you told us --  
20 and if I am wrong, correct me, please -- that you prepared cer-  
21 tain transcripts; is that right?

22 A Correct.

23 Q And did you prepare more than one transcript?

24 A Yes.

25 Q And is it a fact that you prepared at least three?

2 A Yes.

3 Q And that you did this by continually listening  
4 to the tape with more sophisticated equipment each and every  
5 time?

6 A Incorrect.

7 Q Well, did you listen to it again and again to  
8 see if there was anything you missed?

9 A Yes.

10 Q And you listened to it at least three times?

11 A Yes.

12 Q And was that with a view to seeing if there was  
13 any more material that you could pick up, the more often you  
14 listened to it?

15 A Yes.

16 Q And was that because portions of it weren't clear  
17 to you when you first listened to it?

18 A Yes.

19 MR. NEWMAN: Your Honor, I am sorry. I just  
20 asked him for some material, Judge.

21 May I approach the -- Has this been marked?

22 THE COURT: Exhibit 1.

23 MR. NEWMAN: Sir?

24 THE COURT: Exhibit 1.

25 May I have a copy of it, too, Mr. Naftalis?



MR. NEWMAN: I will be the messenger.

May I stand next to him?

THE COURT: Yes, you may.

Q Will you please take a look at Exhibit 1, Mr.

Ruffels --

Pardon my back.

And with particular reference to the first page, sir, you see the line -- May I just point it out to you, sir?

A Yes.

Q Do you see this:

"Talking to you --"

You notice the reference to, "Talking to you is like talking to nobody. I just -- I hang out here -- about four or five blocks away."

You notice that?

A Yes.

Q You had occasion, together with all of us, -- after all the difficulties were ironed out -- to listen to the tape?

A Yes, sir.

Q And as a result of listening to it, did you notice that instead of the word, "You," it should be the word "Me," and it should read, "Talking to me is like talking to nobody. I just -- I hang out here -- about four or five blocks

2 away."

3 Did you notice that, sir?

4 A Yes, sir. I am sorry. I did not.

5 Q All right.

6 MR. NEWMAN: Your Honor, with your permission,  
7 I request some guidance. I would like at his conven-  
8 ience for him to listen to the tape again, Mr. Ruffels,  
9 and I would like to see if it refreshes his recollection  
10 with particular reference to that line.

11 THE COURT: We can do that at the recess.

12 MR. NEWMAN: All right.

13 Q I am sorry. You better hold on to it so you can  
14 do it, Mr. Ruffels.

15 Now, prior to this meeting taking place on June  
16 2, 1972, do you know how it was arranged? In other words, did  
17 Mr. DiPalma arrange that meeting?

18 A Yes.

19 Q Did you suggest that he arrange it?

20 A Yes.

21 Q Was that for the purpose -- Withdrawn.

22 Prior to that time, you had a number --

23 A Excuse me. My answer is not correct. If I might  
24 answer the question again --

25 Q Well, let me put a question. You say now that the



9 1

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2

last answer that you gave is not correct?

3

A Right.

4

Q Did you suggest to Mr. DiPalma that he arrange

5

a meeting on or about June 2nd?

6

A No, I did not.

7

Q Did he, Mr. DiPalma, suggest to you that he was

8

going to arrange a meeting?

9

A No.

10

Q When for the first time prior to June 2nd did

11

you find out that a meeting was to take place?

12

A If I might refresh my memory?

13

Q Sure.

14

A Okay. My answer to that question is that when

15

I took a statement from Mr. DiPalma on May 18th, that he, in

16

his own statement, told me -- and it is indicated on my 302,

17

and it is indicated on his statement, that he meets Zero every

18

Friday afternoon at 3:00 P.M.

19

And my suggestion to Mr. DiPalma was that he keep

20

his formal meeting in which he had been paying a 100 --

21

MR. NEWMAN: Objection, your Honor. Judge, that

22

is not responsive to the question that was put.

23

THE COURT: Well, it is an explanation as to how

24

it happened. You don't have to take it. You can stop

25

him and go on to something else.

THE WITNESS: In other words --

THE COURT: No. Wait a minute. He wants to know who suggested the meeting. You're telling him how it came out.

THE WITNESS: I'm trying to -- Yes.

THE COURT: All right. Do you want the rest of it?

MR. NEWMAN: No, Judge. I was just limiting the question -- I thought it was limited to who suggested the meeting, and how it was arranged.

THE COURT: That's what --

THE WITNESS: I'm trying to answer it. And I thought I was documenting my answer.

MR. NEWMAN: Well, Judge, I object to the colloquy.

THE COURT: All right. Go ahead.

Q Now, you say there was a pre-arranged meeting? Is that what you are telling me?

A Yes.

Q That you found out about it on May 18th; is that right?

A Yes.

Q And you say it was a Friday meeting; is that right?

A That's Correct.



1 80

Ruffels - direct

2 identification, and this marked for identification as  
3 well.

4 THE COURT: Two photographs, marked for identi-  
5 fication as Government Exhibits 5-A and 5-B.

\*\*\*\*

6 One document marked for identification as Govern-  
7 ment Exhibit 6.

\*\*\*

8 Q Special Agent Ruffels, yesterday we heard the  
9 tape recording, Government Exhibit in evidence number 3. Did  
10 you hear that tape recording as it was being played?

11 A Yes, I did.

12 Q Agent Ruffels, you testified earlier that you  
13 were present at this meeting on June 2nd?

14 A That's correct.

15 Q And you testified that you -- I believe that you  
16 saw certain persons present, did you not?

17 A Yes, I did.

18 Q Would you indicate again for the jury who those  
19 persons present at the meeting were?

20 A Yes. The victim, Frank DiPalma --

21 MR. LA ROSSA: Objection.

22 MR. NEWMAN: Objection. I move to strike.

23 THE COURT: Strike the word, "victim."

24 THE WITNESS: Frank DiPalma, Ciro Riccardi and  
25 Ronald Gigliotti.

Q I show you a series of photographs that are marked in as Government's Exhibit in evidence --

THE COURT: 2-A.

MR. NAFTALIS: As those 2-A?

Thank you.

Q Marked as 2-A -- Will you show --

A Do you want me to identify all of the photos?

Q First, what are they?

A These are the photographs taken by myself on June 2, 1972, from a surveillance vehicle situated within a few feet of the meeting between Frank DiPalma, Ciro Riccardi and Ronald Gigliotti.

Q Are those pictures -- those pictures, I take it, depict the meeting you just testified about concerning the tape?

A That's correct.

MR. NAFTALIS: Your Honor, these have already been admitted into evidence. I would like to show them to the jury, if I may.

THE COURT: All right.

MR. NEWMAN: May I look at them for one minutes, Judge?

THE COURT: Sure.

MR. NEWMAN: Thank you, your Honor.



1 82

Ruffels - direct

2 MR. NAFTALIS: Mr. La Rossa, do you want to --

3 Q Special Agent Ruffels, I would like to draw your  
4 attention to three of these photographs out of this series. I  
5 would like you to study each of them.

6 MR. LA ROSSA: Are they marked?

7 MR. NEWMAN: Can we have them identified for the  
8 record?

9 MR. LA ROSSA: We are not going to know which  
10 ones they are.

11 THE COURT: Maybe you better give them a separate  
12 letter.

13 MR. NAFTALIS: Okay. Mr. Clerk, will you please  
14 give these photos numbers under that series?

15 THE COURT: 2-B, C, and D.

16 THE CLERK: Number 2.

17 One photograph under series 2-A. This will be  
18 2-B, 2-C and 2-D.

19 MR. NAFTALIS: Thank you.

20 Q All right. Agent Ruffels, I show you this photo-  
21 graph out of this Series 2-A, and this one is specifically  
22 marked photograph 2-B, and I ask you to study it for a moment,  
23 and if you can identify the persons in that photograph?

24 A Yes, I can.

R2 fls 25

(continued on next page.)

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Q Would you please do so?

A Yes.

Q You may hold it so the jury may see.

A On the left is Frank DiPalma, and on the right is  
Ciro Riccardi.

Q And this photograph marked as Government's  
Exhibit 2C in evidence.

A On the left is Ronald Gigliotti, and on the  
right is Frank DiPalma.

Q And this third photograph marked as  
Government's Exhibit 2D?

A Yes. New York license plate OK2271, which was  
listed to Ronald --

MR. NEWMAN: I object to what it is listed to.

THE COURT: Sustained.

Q Special Agent Ruffels, did there come a time  
that you were able to find out where plate OK2271, New York,  
was registered?

A Yes, sir.

MR. NEWMAN: I object. I am sorry.

THE COURT: You can answer yes or no.

MR. NEWMAN: I am sorry. I anticipated, Judge.  
I apologize.

THE COURT: He can't go beyond that.



1  
2 Q Did there come a time when you were able to  
3 determine who this was registered to?

4 THE COURT: Yes or no?

5 THE WITNESS: Yes.

6 Q And as a consequence of your check, did you --  
7 were you able to determine who that person was?

8 A Yes.

9 THE COURT: Yes or no.

10 Q And who was that person?

11 MR. NEWMAN: Objection.

12 THE COURT: Sustained.

13 MR. NEWMAN: May we have a side bar for just a  
14 minute?

15 THE COURT: It is not necessary.

16 MR. NEWMAN: Okay. I thought maybe I can save  
17 some difficulty, but -- all right.

18 THE COURT: If you want to make some sort of a --

19 MR. NEWMAN: No. I will withdraw my generosity.  
20 It was a fleeting --

21 MR. NAFTALIS: Your Honor, these were marked  
22 for identification. They should be in evidence.

23 THE COURT: Yes, they are in evidence.

24 THE CLERK: Government Exhibit 2B, 2C, 2D  
25 received in evidence.

(So marked.)

Q Special Agent Ruffels, yesterday you testified on or about the 30th of May, 1972, you spoke on the telephone with Mrs. Joan DiPalma; is that correct? On or about the 30th of May or about --

A Yes.

Q And as a consequence of that conversation with Mrs. DiPalma, what, if anything, did you do?

A I conducted an interview on the 30th with Mr. DiPalma and Mrs. DiPalma, and I further photographed Mr. DiPalma.

Q Special Agent Ruffels, I show you these two photographs marked Government's Exhibit 5A and 5B for identification. I ask you if you can identify those photographs.

A Yes, I can.

Q Would you identify those photographs?

THE COURT: Are they the ones you took that you just referred to?

THE WITNESS: Yes. These are.

THE COURT: Wait a minute. Don't go any further. You'd better show them to your adversary.

MR. NAFTALIS: I am sorry.

THE COURT: You'd better show them to your



adversary before something comes out that they may not want.

Q These, Agent Ruffels, I take it, are the photographs that you took?

A That's correct.

MR. NAFTALIS: Agent Ruffels, I have no further questions.

MR. LA ROSSA: May I proceed?

THE COURT: Would you like to offer those photographs?

MR. NAFTALIS: Excuse me.

THE COURT: Would you like to offer those photographs?

MR. NAFTALIS: Oh, I am sorry, your Honor.

Your Honor, I move that these photographs be admitted into evidence.

MR. LA ROSSA: No objection.

MR. NEWMAN: Judge, I object on the grounds that they are not -- there is no connection between what is depicted on those photographs, the dates that they were allegedly taken, and my particular client. There is no connection between my client and these photographs. And I say that they are not relevant as to him.

1  
2 THE COURT: Well, that --

3 MR. LA ROSSA: I object also on the ground  
4 that it's outside the scope, but I am not doing that  
5 every time.

6 THE COURT: You'd better do it.

7 MR. LA ROSSA: Well, I will do it again.

8 THE COURT: I will rule on your objection first.  
9 Your objection is overruled.

10 Your objection will be ruled on by my ultimate  
11 determination of the question that we discussed  
12 already. So I will now allow the photographs in, if  
13 that is the only objection.

14 MR. NAFTALIS: Thank you.

15 THE CLERK: 5A, 5B received in evidence.

16 THE COURT: May I see them, please?

17 MR. NAFTALIS: Surely, your Honor.

18 MR. NEWMAN: What were those marked?

19 MR. NAFTALIS: 5A and 5B.

20 THE CLERK: 5A and 5B.

21 MR. LA ROSSA: Are you finished? I am sorry.

22 MR. NAFTALIS: Yes.

23 MR. LA ROSSA: Could I have the pictures?

24 MR. NAFTALIS: Which pictures?

25 MR. LA ROSSA: All of them.



1  
2 Thank you.

3 CROSS-EXAMINATION

4 BY MR. LA ROSSA:

5 Q Mr. Naftalis has been addressing you as  
6 Special Agent. Is that your title, sir?

7 A That is correct, sir.

8 Q Are there any agents of the Federal Bureau of  
9 Investigation that do not have the title, Special Agent?

10 A No.

11 Q Do you recall meeting a detective by the name  
12 of Oleska?

13 A Yes.

14 Q Do you remember showing him a picture?

15 A Yes.

16 Q Did you hear him testify here in court that  
17 you showed him a picture?

18 A Yes.

19 Q Did you hear him testify that he couldn't  
20 identify the individual in that picture?

21 MR. NAFTALIS: Your Honor, I object.

22 THE COURT: No. Overruled.

23 THE WITNESS: Yes.

24 Q Was this the picture, sir -- and I show you  
25 Government's Exhibit 2B in evidence -- that you showed him?

1  
2 A Yes.

3 Q Will you tell us who is in that picture and  
4 tell the jury, please?

5 A On the right, Frank DiPalma, and on the left,  
6 sir, Ciro Riccardi.

7 Q Now, at the time that you showed the detective  
8 that picture, he certainly knew who Frank DiPalma was, didn't  
9 he?

10 A Yes.

11 Q Did he tell you that Frank DiPalma was one of  
12 the individuals in that picture?

13 MR. NAFTALIS: Objection, your Honor. Hearsay.

14 THE COURT: No. Overruled. Overruled.

15 Q Sir?

16 A Yes.

17 Q So, in effect, he couldn't identify Ciro  
18 Riccardi; isn't that right?

19 A That is correct.

20 Q Now, sir, how many years have you been a  
21 Special Agent for the Federal Bureau of Investigation?

22 A Four years, eight months.

23 Q Now, sir, prior to your appointment as a  
24 Special Agent, did you go to a school in Quantico, Virginia?

25 A Yes, sir.



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Q And in that school were you taught certain subjects?

A Yes.

Q WERE one of these an interview and how it should be conducted?

A Yes.

Q And were you taught at Quantico, Virginia, that an interview that you take should be as exact as possible?

A Yes.

Q And should be put into the form of a writing as quickly as you could?

A Yes.

Q And do you recall that those writings are to be on a 302 report?

A Yes.

Q Now, did you take many -- withdraw the question. Did you conduct many interviews of Mr. DiPalma?

A No.

Q How many times were you in Mr. DiPalma's presence when you asked him questions and he gave you answers?

A I believe three times.

Q On those three occasions, sir, did you make out what is called a 302 report?

A I believe I did.

1  
2 Q Is there any question in your mind that you  
3 did?

4 A I will have to refresh my memory.

5 Q Please do.

6 A Yes, I did.

7 Q Three times?

8 A That's correct, sir.

9 Q Now, sir, will you tell me whether or not you  
10 have a duty to report to your superiors -- to make a report  
11 to your superiors any time you find evidence that someone  
12 has committed a crime?

13 A Are you referring to a federal crime?

14 Q Let's start with a federal crime first.

15 A Yes.

16 Q You must report that to your superior; is that  
17 correct?

18 A I must make a report, yes.

19 Q Okay. Now, in addition to that, let's assume  
20 you come upon evidence of a crime that is not federal, but  
21 state in nature. Do you feel as a peace officer, as a  
22 Special Agent of the Federal Bureau of Investigation, you  
23 have the duty to make a report with respect to that crime  
24 to someone?

25 A Yes.



1  
2 Q Now, you have had an opportunity to review all  
3 your reports in this case, haven't you, before you took the  
4 witness stand?

5 A As well as I can recall, yes.

6 Q You certainly wrote them over the last few  
7 days, haven't you? Did you read them before you took the  
8 stand?

9 A Yes.

10 Q Do you see anything in those three reports  
11 about Mr. DiPalma being a bookmaker?

12 A In my report?

13 Q Yes, your reports.

14 A No.

15 Q When for the first time did you find out he was  
16 a bookmaker?

17 A At the Eastern District Strike Force --

18 Q When?

19 A (Continuing) Office.

20 THE COURT: He asked when.

21 Q When, sir?

22 A At the time of the indictment.

23 Q Did you make out a report? You, personally?

24 A No, I didn't.

25 Q That you found out that the man was a bookmaker?

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A No, I did not. Well, let me clarify my answer.

Q Please do.

A As he explained it, he was not a bookmaker.

Q As he explained it to you?

A That's correct.

Q Did he tell you --

A There was no -- excuse me.

Q I am sorry.

A There was no evidence from what he told me to believe that a crime had been committed against the United States in the form of bookmaking.

Q Let me ask you this: Did he tell you -- withdraw the question.

Were you here when he testified?

A Yes.

Q Did he tell you exactly what he told the Court and jury?

A As I -- to the best of my recollection, he said that he took bets and went down to the OTB Office on Avenue X and placed the bets, which does not constitute a violation of federal law. He placed bets at the racetrack for friends, which does not constitute a violation of federal law.

Q Are you finished?



Ruffels-cross-LaRossa

for someone to come, is that right?

A No.

Q The eleven minutes contains that?

A I'm sorry. When I say it took him eleven minutes I'm saying that he was joined by the light blue automobile, bears license plate 2271 at 3:14.

Q Which was eleven minutes after he began to walk?

A Right. He left the luncheonette at 3:03. At 3:14 he was joined by a light blue automobile.

Q I show you what's been marked Exhibit 3 in evidence, the original tape that was played to this jury. How many times have you listened to that or a duplicate copy?

A I really can't estimate how many. Several. Many.

Q Give me your best recollection. Ten?

A Ten, twelve maybe, I don't know.

Q Did you ever tamper with that?

A No, sir.

Q Did you ever erase portions of it?

A No, sir.

Q Did you ever splice it?

A No, sir.

Q Did you ever cut parts of it out?

A No, sir.

Ruffels-cross-LaRosa

Q Did you hear an eleven minute gap in that tape? When we listened to it here in this courtroom from the time that we left the luncheonette and the few words that were said there until the time the conversation began again?

A I never timed it, sir.

Q There -- was there an eleven minute gap or anything that substantial?

A I don't think so. I don't think there was an eleven minute gap on this tape.

Q Sir, is there any question in your mind that there was a very short gap on that tape, between those two conversations? The one we all heard here today -- yesterday?

A I would -- I don't think that eleven minutes is represented on this tape, the walk from the luncheonette to the deli was indicated on this tape.

Q He shut it off then, didn't he?

A I did.

Q You did?

A I controlled the recording. I thought I said that previously, that I had the recorder in my vehicle.

Q Let me ask you this. At the very beginning of that tape and you heard it with us yesterday -- there are an awful lot of street sounds like a vendor selling something, am I right?



## Ruffels-cross-LaRossa

6 1

2 A Yes.

3 Q Was that what it was?

4 A It -- sounds of that nature, yes.

5 Q You didn't choose to shut it off at that time?

6 A No, we didn't.

7 Q And there were occasions where it sounded like  
8 children were yelling, one child yelling to another child  
9 possibly down the street?

10 A Right.

11 Q You didn't choose to shut if off at that time,  
12 did you?

13 A No, we didn't.

14 Q As a matter of fact, can you tell us right now  
15 each time you shut if off and each time you started it?

16 A Yes, I can.

17 Q Can you? Did you write it down on a piece of  
18 paper?19 A I again have to say I have to refer to the --  
20 my surveillance log.21 Q The conversation you had with Mr. DiPalma before  
22 you put this tape on, whatever we call it, transcriptions,  
23 I'm probably using the wrong technical word, the machine  
24 that you put on his body?

25 A Body transmitter.

Ruffels-cross-LaRossa

Q Body transmitter. When Mr. Newman asked you whether or not you said to him -- withdraw the question. In addition to the conversation that you had with Mr. DiPalma about vig, Mr. Newman said to you, "Did you suggest to him, to Mr. DiPalma, that if you got the people steamed up, maybe there would be talk of violence?" You said you did not do that, right? Do you understand my question?

A Yes, I understand it, counselor.

Q All right. Is that what you just told us a few moments ago?

A I said that I did not instruct him to get the people steamed up.

Q Okay. That's all I'm asking. There is no question in your mind about that now as you sit here, right? You wouldn't do that, would you?

A Not -- not at that particular time, no.

Q You mean, you've done it on other times?

A Well, I'm just trying to --

Q Please do.

A I can't recall. That I've ever instructed anyone to place themselves in personal danger. No, I don't think I did.

Q Forget the personal danger effect. Did you ever tell anyone, "Try and get him riled up so they'd say



Ruffels-cross-LaRossa

1 something threatening to you because it could be introduced  
2 in Court against them."

3  
4 A No. I did suggest to Mr. DiPalma that a threat  
5 would -- would help.

6 Q These are the words you used?

7 A Words to that effect.

8 Q Threat would help. Did you tell him that as  
9 part of this crime, you had to prove a threat?

10 A I don't think -- I don't think I did. I don't  
11 think I told him that. It's not -- we don't normally tell  
12 everyone how we're proceeding with an investigation. I don't  
13 think it's our common practice to tell everyone what we're  
14 doing.

15 Q Did you tell him that a threat from each person  
16 he met on that day would help? If there were more than one?

17 A Absolutely not.

18 Q Just Mr. Riccardi?

19 A Absolutely not.

20 Q Just Mr. Riccardi?

21 A I -- I would imagine that I suggested that if  
22 Mr. Riccardi threatened him, it would probably help.

23 Q Agent Ruffels, didn't you suggest to him that he  
24 should try to get Mr. Riccardi to threaten him because that  
25

## Ruffels-redirect

Oleska?

A For the purpose of identifying Frank DiPalma and ask -- and attempting to obtain an identification on Ciro Riccardi.

Q Special Agent Ruffels, I want you to think for a moment before you answer. To the best of your recollection, would you please give me the exact answer that Detective Oleska gave you when you asked him to identify the person standing next to Frank DiPalma. Please think for a moment before you give me your answer. I'd like to have as close as possible to the exact words.

A I believe Officer Oleska said or replied, told me, that this individual fits the description of one of the three men that were banging -- that was banging on the door on the evening of the -- at the time that Sergeant Oleska was in the DiPalma residence. and --

Q I'm sorry?

A And that Mr. DiPalma identified --

MR. LA ROSSA: I object to this.

THE COURT: You opened the door.

MR. LA ROSSA: Not as to what Mr. DiPalma said.

THE COURT: You opened the door.

MR. LA ROSSA: You'll note my objection, please.

THE COURT: Yes.



Ruffels-redirect

1  
2 A Mr. DiPalma told Officer Oleska on that night  
3 that one of the men down pounding on the door that night was  
4 Ciro.

5 Q What, if anything, else did Detective Oleska say  
6 to you in respect to the identification of that other person?  
7 Do you recall anything else he said? Did you make any  
8 other statements as to try to further clarify or indicate  
9 his lack of ability to further identify?

10 A I -- I simply recall that he -- that Frank DiPalma  
11 told Officer Oleska and Officer Garcia both that that was  
12 Ciro.

13 MR. LA ROSSA: You'll note my objection to that  
14 and move to strike the answer.

15 THE COURT: Overruled. We'll take a five minute  
16 recess, ladies and gentlemen. Don't discuss the case  
17 and Mr. Ruffels will refresh his recollection from the  
18 tape on that question.

19 THE WITNESS: Oh, the walk.

20 (Recess taken)

21 (Jury present)

22 THE COURT: Proceed, please.

23 MR. NAFTALIS: Your Honor, I believe we were in  
24 the middle of an answer from Mr. -- Special Agent  
25 Ruffels. I would ask for the Court Clerk to read back

Ruffels-redirect

my question and that part of the answer that he had given thus far.

THE COURT: I thought he completed it but go ahead.

(Read)

BY MR. NAFTALIS:

Q All right. Special Agent Ruffels, I'll ask you to think for just a moment. You've heard your response. Is there anything further that you can think of?

A I think he said, he just couldn't remember anything else.

Q And that to the best of your recollection is all you can remember that he said?

A That's right.

Q Now, Agent Ruffels, you were questioned at some length by Mr. Newman concerning the statement you took on May 16th from Frank DiPalma, is that correct?

A Correct.

Q Could you please set forth for the Court and the members of the jury the circumstances under which you took that statement?

A Well, it was in the form of questions, because Mr. DiPalma was not in -- in a condition. He couldn't -- he couldn't put everything together in the proper sequence.



## Ruffels-redirect

13 1 He would be talking about an event that happened previous to  
2 another event and so in order to get a clear statement, at  
3 least chronologically, to the best of my ability, I had to  
4 ask him point by point what happened next, what did he say  
5 et cetera. So that his thinking was clear. The man was in  
6 a -- a terrible emotional state, in -- for example, he was

8 MR. NEWMAN: Objection as to the example, please.

9 THE COURT: Sustained.

10 A He contemplated --

11 Q How intensive, if at all, was your questioning of  
12 Mr. DiPalma at the time of the taking of the statement.

13 MR. NEWMAN: I don't know what that means.

14 THE COURT: Neither do I but maybe the witness  
15 does.

16 A Would you repeat that please?

17 Q Surely. How intensive, if at all, was your ques-  
18 tioning of Mr. DiPalma?

19 A It was intensive. Due to the emotional state.

20 Q What was the rest of your answer?

21 THE COURT: No. Leave the rest out.

22 Q Agent Ruffels, you testified to the wiring up  
23 of Mr. DiPalma, is that correct?

24 A Correct.

25 Q And you also testified under Mr. LaRossa's

Ruffels-cross-LaRossa

1  
2 would help you in the presentation of this case? Didn't  
3 tell him that?

4 A I really -- I really don't recall.

5 Q Were there provoking statements that Mr. DiPalma  
6 said that day that you chose to shut that transmitter off,  
7 that we didn't hear here?

8 A Absolutely not.

9 Q Were there provoking gestures that he made to  
10 either of these gentlemen on that day that you haven't told  
11 us about?

12 A Absolutely not.

13 Q Did you see all of his gestures?

14 A To the best of my ability, yes.

15 MR. LA ROSSA: I have nothing further.

16 REDIRECT EXAMINATION

17 BY MR. NAFTALIS:

18 Q May I just have those exhibits a moment?

19 A Yes.

20 Q Agent Ruffels, Mr. LaRossa cross-examined you  
21 and showed you a picture three -- I'm sorry, your Honor --  
22 2-B in evidence and he asked you whether you had shown it  
23 to Detective Oleska, is that correct?

24 A That's correct.

25 Q And for what purpose did you show it to Detective



## Ruffels-redirect

1  
2 cross-examination that there was an on and off switch, is  
3 that correct?

4 A Yes.

5 Q And you also testified that that tape -- that  
6 switch, to the best of your recollection, was taped in an  
7 on position?

8 A Yes, it was.

9 Q Special Agent Ruffels, did you monitor the entire  
10 conversation?

11 A Yes.

12 Q At all times was that machine broadcasting?

13 A Yes.

14 Q Was there any period of time that that machine  
15 was switched off the air?

16 A Yes.

17 Q Not the tape machine. I'm talking about the  
18 transmitter.

19 A Oh, the transmitter, no.

20 Q And you listened to that transmission completely?

21 A Yes.

22 Q You testified under cross-examination that there  
23 came a time when you shut off that machine. Is that correct?

24 A Correct.

25 Q How many times did you shut the machine off?

## Ruffels-redirect

15 1 A Once.

2 Q And for what reason did you shut that machine  
3 off?  
4

5 A The original, the original tape is here. The  
6 original cassette is here. We had the -- when you use a  
7 cassette, the cassette has a limited time span. We did not  
8 know how long it was going to take to walk because I didn't  
9 know where Neal's Deli was before the meeting and from the  
10 conversation between Mr. DiPalma and Ronald Gigliotta, it  
11 was vague. It was unclear to me exactly where this meeting  
12 was to take place because they were talking about a fur store  
13 and they were talking about a deli and a house and so it was  
14 unclear to me and furthermore, I anticipated that perhaps  
15 he would be stopped on the way down by a car, approached as  
16 he was walking because I think at one point there was some  
17 discussion about well, we'll start walking in that direction.  
18 I think was one of the terms used. So that we were concerned  
19 that we didn't want to -- we didn't know how long the meet-  
20 ing with Ciro Riccardi and Frank DiPalma would last. We  
21 didn't want to get in the middle of a conversation between  
22 those two individuals and have the tape run out. We didn't  
23 want to run out of tape so there was no reason to record and  
24 use up five or ten minutes worth of tape when it might cost  
25 us at the very end of the cassette when we needed it most.



## Ruffels-redirect

Q During the period of time that you were not running the cassette tape recorder, were there any conversations between Frank DiPalma and any other persons?

A No.

Q Were there any conversations intercepted in which the defendant Ciro Riccardi or the defendant Ronald Gigliotta was heard to be speaking and not recorded?

A No.

Q During that period of time that the tape recording device was off, what was being transmitted? What types of sounds, if any?

A Children's, children playing, people talking on the street. That was it. Other people on the normal business street.

Q Special Agent Ruffels, how did you know when to turn the machine back on?

A I saw the vehicle bearing license OK 2271 pull up and Ciro Riccardi and Ronald Gigliotta exit the car.

Q I show you this photograph marked 2 in evidence. I ask you if that is the automobile you are referring to?

A That is the -- I took this picture of the car.

Q And as I understand your testimony, it's at that moment that you turned the recording device back on?

A Yes.

## Ruffels-redirect

1  
2 Q As Frank DiPalma proceeded down the street to  
3 that meeting to Neal's Deli, did you have him under observa-  
4 tion?

5 A Yes.

6 Q Could you see him?

7 A Yes.

8 Q During the time of his walking towards the  
9 defendants, did you see him make any gestures in their direc-  
10 tion?

11 A No.

12 Q Did you see him wave a fist?

13 A No.

14 Q Did you see him produce a weapon?

15 A No.

16 Q Did you hear him shout threats?

17 A No.

18 Q Did you observe, hear, see or in any way observe  
19 any threatening motions from Frank DiPalma in the direction  
20 of either of those two gentlemen?

21 A No.

22 Q In the direction of any other person?

23 A No. As a matter of fact, he was searched. They  
24 searched him.

25 Q When you say, they, whom do you refer to?



Ruffels-redirect

1  
2 A       Ciro. Searched him for -- for what -- what  
3 Frank --

4 MR. LA ROSSA: Objection.

5 THE COURT: Can't say what he searched him for.

6 A       Okay. He searched him.

7 Q       Was anyone else present when that search took  
8 place?

9 A       Ronald Gigliotta.

10 Q       I just want to dwell for a moment, Special Agent  
11 Ruffels, on your decision to shut the recording device off.  
12 I ask --

13 MR. LA ROSSA: I object to the form of the ques-  
14 tion.

15 THE COURT: He's giving a preliminary background,  
16 Go ahead. Ask the question.

17 MR. NAFTALIS: Thank you, your Honor.

18 Q       Special Agent Ruffels, you testified in respect  
19 to Mr. LaRossa's cross-examination, you've been an agent  
20 for some four years, is that correct?

21 A       Four years and eight months.

22 Q       Four years, eight months. Excuse me. Have you  
23 had the opportunity to tape other conversations?

24 A       Yes.

25 Q       Were other conversations on body devices being

## Ruffels-redirect

worn by consenting persons?

A Yes.

Q Have you ever had reason or cause to, or be in the presence of agents who have had reason or cause to shut off the device for the same reasons that you outlined in your response to Mr. LaRossa's question?

A Yes.

Q Is that normal FBI procedure?

A Yes.

MR. LA ROSSA: Objection.

THE COURT: I will allow it.

Q Is that normal FBI procedure?

A Yes, it is.

Q Special Agent Ruffels, was it your intention when you shut off that device to in any way suppress the evidence?

MR. LA ROSSA: Objection.

THE COURT: When you shut off the tape recorder --

MR. NAFTALIS: The tape recorder, yes, your Honor.

The door was opened by Mr. LaRossa.

THE COURT: I will allow it.

Q Special Agent Ruffels, when you shut that tape recorder off, was it your intention in any way to suppress any evidence?



## Ruffels-redirect

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A No.

Q Did you suppress any evidence?

A No.

Q Did you hear any statements from Mr. DiPalma, Mr. Riccardi or Mr. Gigliotta during the time that that transmitting device was working and the tape recorder was not?

A No.

Q It was the only reason you shut off that machine, the one you outlined? By that I mean the conservation of tape for when they were actually engaged in conversation?

A That's correct.

Q One further question, Special Agent Ruffels. During the time that you observed Frank DiPalma on the street, wearing this body device, other than these two defendants whom you've testified to previously you saw engaged in conversation with Mr. DiPalma, did you see him speaking with anyone else? Again --

A In front of the luncheonette.

Q Who was that?

A I don't know who the individual was.

Q And what was the length of that conversation?

A I -- I'm not even sure he spoke to him. There was another individual standing in front of the luncheonette

## Ruffels-redirect

that we thought was involved. I don't -- I don't think he spoke with him but there was another individual standing near by that -- that we thought was with Mr. Gigliotta.

Q Did Mr. DiPalma --

A He did not speak to him. As I recall, no, he did not speak to him. I'm sorry. The answer is no.

Q So, as I understand your answer, the only people you saw Mr. DiPalma speak to are the two gentlemen seated at that table?

A Correct.

Q And no one else?

A Correct.

MR. NAFTALIS: No further questions.

MR. LA ROSSA: Would you bear with me just a moment, please?

MR. NEWMAN: May we, with your permission and with Mr. Naftalis's consent, I'll go out of turn if that will expedite things.

THE COURT: If that's all right?

MR. LA ROSSA: Fine.

MR. NAFTALIS: No objection, your Honor.

## RECROSS-EXAMINATION

BY MR. NEWMAN:

Q Now, there was a period of time that you told



Ruffels-recross-Newman

1  
2 me earlier today that you didn't have Mr. DiPalma under sur-  
3 veillance, is that correct?

4 A Correct.

5 Q And you couldn't tell me exactly how long until  
6 you checked your surveillance log, I think you called it, or  
7 something loke that?

8 A Correct.

9 Q As you sit here now, after all of this question-  
10 ing, is your recollection refreshed as to how long a period  
11 of time you didn't have Mr. DiPalma under surveillance?

12 A I -- I estimate five to six minutes.

13 Q You estimate 'five to six minutes. So, obviously,  
14 during this five or six minute period you don't know if Mr.  
15 DiPalma was talking to anybody else, do you?

16 A Oh, yes. I know. I was listening.

17 Q But you didn't see where he went?

18 A I saw where he went, yes.

19 Q During this five or six minute period?

20 A Yes.

21 Q Did you have him under surveillance?

22 A I had him under surveillance. When I say he  
23 wasn't under surveillance, I mean close surveillance, within  
24 -- within 50 feet. I physically saw him half way down the  
25 block, in the company of Mr. Riccardi and Mr. Gigliotta,  
standing outside of a house which they wanted him to go into,  
apparently, and he refused.

Ruffels-recross

1  
2 Q When you say they wanted, you listened to this  
3 tape at least 10 or 12 times; is that right?

4 A Correct.

5 Q Did you hear the person who you say was Ronald  
6 Gigliotti asking to go into that house?

7 A Will you repeat that, please.

8 MR. NEWMAN: I don't mean in the tone of my  
9 voice, but we can we have the stenographer read it  
10 back.

11 (Record read.)

12 THE WITNESS: I really can't remember.

13 Q Now, sir, earlier today, when I asked you  
14 about surveillance, you told me there was a five or six  
15 minute period that you didn't have him under surveillance;  
16 is that right? Did you tell me that earlier this morning?

17 A I did.

18 Q And now you are telling me that you are  
19 changing that? That at all times you had him under  
20 surveillance?

21 A He was physically observable to me. What I  
22 was -- what I meant was, we were close enough to come to  
23 his aid wherever -- way down the block. We felt he was not  
24 in our immediate proximity. I physically saw him, yes.

25 Q At all times?



## Ruffels-recross

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A Absolutely.

Q So now your answer from earlier today -- you are changing it to you had him under surveillance at all times?

A Correct.

Q And now you don't have to look at the surveillance logs that you are talking about; is that right?

A I think I have to.

Q You keep a surveillance log, which is a series of notes that you are instructed to keep; is that right?

A That's right.

Q And this shows you when you saw people doing various things, right?

A Right.

Q When you tell us that your recollection is refreshed now so that you had changed your earlier answer that you have Mr. DiPalma under observation all the time, now as I understand it you have to look at the surveillance logs again to make sure that you are right?

A No. Because you had previously asked me a question, when did we stop, how long did the meeting last. And I say to you, sir, that I have to refresh my memory by looking up that particular time on the surveillance log. I don't have to refresh my memory at all about whether he was physically observable. He was physically observable.

**Ruffels-recross**

1  
2           Q       Now -- so that now your answer is that you are  
3 categorically sure and your answer today is that you lost him  
4 or you didn't surveil him -- withdraw the "lost" -- that you  
5 didn't surveil him for a period of time is incorrect and you  
6 are changing --

7           A       That was incorrect. Absolutely incorrect. And  
8 my answer is, he was physically observable to me at all times  
9 as well as Special Agent Kiel.

10           MR. NEWMAN: May I still request the aid of  
11 the Court for the production of that surveillance  
12 report.

13           THE COURT: Yes.

14           Q       Now, did you have an opportunity, as provided  
15 for you by Judge Platt, to listen to the tape during the  
16 recess, that portion that I asked you about?

17           MR. NEWMAN: May I have the transcript, please.

18           MR. NAFTALIS: It's right here.

19           MR. NEWMAN: Thank you.

20           Q       Did you have that opportunity during the  
21 recess?

22           A       Yes, I did.

23           Q       And you prepared this Exhibit No. 1 for  
24 identification, the transcript?

25           A       Yes.



Ruffels-recross

MR. NEWMAN: May I stand here, please, Judge.

THE COURT: Looking down at that line again that we read earlier -- now, this is -- so that I am correct, is the conversation that took place outside the luncheonette; is that right?

A That's right.

Q And that's the conversation that you observed, you claim, Mr. DiPalma talking to Mr. Gigliotti; is that right?

A Um-hm.

Q And you took a photograph of them in conversation; is that right?

A Yes.

Q That's been introduced into evidence; is that right?

A Yes.

Q And you have the initials down here, R. G., and by your legend that's supposed to be Ronald Gigliotti, right?

A Correct.

Q And your original transcript had on it, "Talking to you is like talking to nobody." And this is supposed to be Gigliotti talking.

"I just hang out here -- about four or five blocks away."

## Ruffels-recross

Right?

A Right.

Q And you listened to this approximately 10 to 12 times, you told Mr. LaRossa, before preparing the various transcripts, right?

A Right.

Q And now you listened to it during this recess?

A Right.

Q Is your recollection refreshed that instead of "talking to you," it should be, "talking to me is like talking to nobody. I just hang out here -- about four or five blocks away."

A What specifically would you like me to --

Q Well, should the "you" be "me"?

A Yes.

Q And that "me" refers to Ronald Gigliotti telling Frank DiPalma that "You're talking to me about this is like talking to nobody," right?

A Yes.

Q Now, what was your training prior to your becoming an FBI Agent, academically?

A I have a Bachelor of Science Degree from Southern Connecticut State Teachers College, a Masters Degree from the University of Bridgeport, and six credits short of



Ruffels-recross

my six year degree.

Q Now, so, therefore, it is fair to say that you have a great working understanding of the English language; is that right?

A Yes sir.

Q And "Talking to me is like talking to nobody," has great significance, does it not, in the English language?

A Yes.

Q And in words of substance, it is Ronald Gigliotti saying, "Talking to me about this is like talking to nobody because I have nothing to do with it." And it has great meaning in this case, does it not, Agent Ruffels?

MR. NAFTALIS: Your Honor, I object. That's for the jury to conclude.

THE COURT: Well, I will let him ask it.

MR. NAFTALIS: Your Honor, I also ask for Mr. Newman to lower his voice.

MR. NEWMAN: I am sorry. You know, I get carried away. It is my habit. I apologize to you.

I apologize to you, Mr. Ruffels.

THE COURT: It's a bad habit.

MR. NEWMAN: Yes, I know. It's a lot of wear and tear on the heart, Judge.

THE WITNESS: Could I have the Court Reporter

## Ruffels-recross

repeat that question, please.

(Record read.)

THE WITNESS: It was my understanding that this transcript had -- did not have any particular evidentiary value.

Q How about the conversation itself?

A You mean have I altered the tape?

Q No. I didn't say that at all. I am saying to you, the conversation, the words, the substance, the sentence, "Talking to me is like talking to nobody," does that have significance?

A Oh, it certainly does.

Q Now, you knew, did you not, as an FBI agent and having worked on cases, as you told us before where body transmitters were put on, and that transcripts are given to jurors as aids to them in listening to the tape. You knew that, did you not?

A Yes.

Q And you knew that the jury was going to be looking at the transcript while they were listening to the tape, did you not, sir?

A Yes.

Q And that it might shape their thinking.

MR. NAFTALIS: I object to that. There already



Ruffels-recross

has been a direction from the Court to the jury on how to view the transcript and how to view the tape.

THE COURT: I will allow it.

Q That it might shape their thinking and suggest the word "you" instead of the word "me" that was actually on the tape?

A In the context of that statement, I don't -- I don't think that it substantially changes -- alters the statement.

Q Are you saying to me that the statement means the same when you -- I am sorry.

A I am -- I am not saying it means the same. I am saying -- I am suggesting that in my opinion -- we are discussing the English language.

Q Right.

A Right now.

In my opinion, that if -- if you read this conversation, this statement, "Talking to you is like talking to nobody. I just hang out here -- about four or five blocks away." If I -- if you say, "Talking to me is like talking to nobody. I just hang out here -- about four or five blocks away." It's apparent to me that it's an oversight. It was simply -- we know Mr. DiPalma didn't hang out there. I know Mr. DiPalma didn't hang out there. And I assume the

## Ruffels-recross

1  
2 jury realizes --

3 MR. LA ROSSA: I object to that and move that  
4 it be stricken.

5 THE COURT: No, I will allow it.

6 THE WITNESS: We are discussing the English  
7 language now.

8 Q That's right.

9 A And I assume that the jury recognizes the fact  
10 that Mr. DiPalma did not hang out there. And, therefore,  
11 the statement is quite explanatory and it's simply an over-  
12 sight.

13 Q Are you finished?

14 A Yes.

15 Q The basic situation here, is it not, is that  
16 Mr. Gigliotti is a defendant in a case; is that right?

17 A Correct.

18 Q And you are purporting to indicate that this  
19 is a conversation that you say he participated in, right?

20 A Yes.

21 Q And are you saying to me that in your judgment  
22 of the English language when a man who is a defendant in a  
23 case is talking to me -- says, "Talking to me," and there's  
24 no question that you're talking in terms of the charges or  
25 the underlying facts involved; is that right?



Ruffels-recross

A Right.

Q And, "Talking to me about the underlying facts is like talking to nobody," are you telling me that that has no significance?

A I am not saying -- because it has significance. I am saying that within the context of this, this statement, it's apparent that it's an error. That is what I am suggesting. That if you read it for context, the content obviously excludes Frank DiPalma, and, therefore, must refer to the person, "Me" instead of "You".

Q It must mean that Ronald Gigliotti is saying to Frank DiPalma, "I had nothing to do with this;" is that right?

MR. NAFTALIS: Objection.

THE WITNESS: Would you repeat it?

THE COURT: I will allow it.

MR. NEWMAN: Please, may we have the reporter read it back.

(Record read.)

THE WITNESS: I would say in that statement, yes sir.

MR. NEWMAN: No further questions.

MR. LA ROSSA: Just one or two.

## RE CROSS-EXAMINATION

BY MR. LA ROSSA:

MR. LA ROSSA: May I have 2B please.

THE WITNESS: Would this be it?

Q Do you have it? Is that the only photograph  
you have?

A I have two photographs.

Q May I have it? Maybe it's the other one I want.

A 2B.

Q Okay. How tall is Mr. DiPalma?

A Five foot nine inches tall.

Q Can you tell me how tall Mr. Riccardi is?

A I would estimate Mr. Riccardi is five nine.

MR. NAFTALIS: I object. I don't see the  
relevancy of this.

MR. LA ROSSA: You will in a moment.

THE WITNESS: Five ten.

THE COURT: I will allow it.

Q I am sorry.

A Five nine, five ten.

Q About the same height?

A About.

Q About the same height as Mr. DiPalma?

A No. I think Mr. Riccardi is probably a little



shorter.

Q A little shorter.

A I think. I take that back. I don't know. I guess they are probably about the same height.

Q Approximately the same, give or take an inch, right?

A Yes.

Q Did you hear Mr. Oleska's testimony here in court?

A Yes.

Q Were you sitting here?

A Yes.

Q Did you pay attention to it?

A Tried to.

Q Do you remember when Mr. Naftalis on direct examination asked Mr. Oleska to describe the three men that were in front of the premises that evening?

A Yes.

Q Prior to Mr. Oleska giving that answer here in court, had you had conversations with him?

A With Mr. Oleska?

Q Yes?

A Yes.

Q Had you made a determination based upon those

1  
2 conversations that he was an experienced law enforcement  
3 officer?

4 A Yes.

5 Q No question about that, right?

6 A Right.

7 Q A supervisor of detectives assigned to the  
8 Brooklyn District Attorney's Office, right? Is that kind  
9 of the cream of the crop of the New York City Police Department?

10 A Yes sir.

11 Q When he gave us the description here in court,  
12 is there any question in your mind that he gave us his  
13 completed -- as complete a description of those three men  
14 as he could have?

15 A Yes.

16 Q Am I correct in stating to you, sir, that this  
17 is how he described the three men: 28, 30 to 32, five foot  
18 eight to five foot ten.

19 Is that the extent of his description here in  
20 court when he told the jury what the description of those  
21 three men were?

22 A I believe that was.

23 Q And now, you are telling us -- withdraw the  
24 question.

25 Just a few moments ago or a few minutes ago or



155

a half hour ago, you were asked to stop and think and meditate on what you remember Mr. Oleska saying to you about this description. Do you remember that? Am I correct, after stopping and meditating and thinking, you gave us his exact words? And see if I am quoting you correctly.

The individual fits the description of one of the men.

Were those your words that you attributed word for word to Mr. Oleska?

A I think you have taken it out of context.

Q Well, please give me the exact words again.

And if it takes a few moments to meditate and think about it, go ahead.

A I am not sure about that. I think I said, fits the description of one of the men that was knocking on the door --

Q Did you say that?

A (Continuing) -- that night.

Q Okay. I am sorry.

A Yes.

Q Did you say, "How does he fit the description, Mr. Oleska?"

A I thought I did.

Q And what did he say?

Ruffels-recross

156

A I'm sorry. Did I say that to Mr. --

Q Yes.

A Yes. At the time that I talked with him, yes.

Q Okay.

A Because he physically said he could not identify  
them.

(Continued on next page)



JB:GA  
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Ruffels - recross/LaRossa

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Q

Now, as a trained Police Officer, if he knew

one of the men had hair under his nose in the form of a mustache,  
he certainly would have told us that, right?

A

Well, at 11:00 o'clock at night --

Q

I am asking you the question, sir. He would  
have told us that if he observed a mustache; isn't that right?

A

I would think he would.

Q

And he would have told us, sir, if he observed  
the man to be extremely heavy or extremely thin; isn't that  
right?

A

Yes.

Q

As a matter of fact, he didn't even tell us whether  
they were Caucasian, Negro or Oriental; is that correct?

A

That's right.

Q

And yet you tell me that by looking at this pic-  
ture he said to you, That individual fits the description of  
one of the three men who were knocking on the door; is that  
right?

A

Yes. In words to that effect.

Q

Now, the picture certainly doesn't describe the  
height of the individual, does it? Because his legs are cut  
off; isn't that right?

A

Right.

Q

Aside from the fact that someone could guess at

158  
the age of that individual, there are no other factors that  
fit Olaska's description that could help him pick that man out;  
isn't that right?

A Correct.

Q So, he didn't tell you, as he told us here in  
court, "I can't identify that man"?

A Yes. He did say he couldn't identify him. He  
said he fit the description of one of the men that knocked on  
the door. And he very definitely stated to us he could not  
identify him, because we would have liked to have him identify  
him.

Q That would help.

A He could not identify him. And he stuck to that  
implicitly.

Q Stuck to that? I am sorry.

A He stuck to the fact that he personally could  
not identify one of the three individuals that night as being  
Ciro Riccardi. However, he told us -- He told us that Mr.  
DiPalma identified one of the individuals as being Ciro Riccardi.  
In other words, one of the guys there is Ciro Riccardi, and  
that it was their understanding. And that's all. He is an  
experienced Police Officer, and he declined to make an identi-  
fication. Correctly so.

Q How many times did he decline to make that identi-



2      fication?

3           A       I think at least two.

4           Q       Why was he sticking to that story? Were you  
5      trying to get him to change it?

6           A       No, not at all.

7           Q       Why did you use the expression just a few minutes  
8      ago, "He stuck to that story throughout." What did you say  
9      that?

10          A       Vernacular of the trade.

11          Q       Did you tell him that, You know, it would help,  
12      Oleska, in this case, or Detective, if maybe you could identify  
13      that man?

14                   Like you told Mr. DiPalma, "It would help if we  
15      heard some violence of threats."

16                   MR. NAFTALIS: Objection.

17                   THE COURT: Sustained.

18                   Don't do that, Mr. LaRossa.

19          Q       Did you tell him?

20          A       What are we talking about?

21          Q       Did you tell Mr. Oleska at that time when you  
22      asked him if he could identify that person, that it would help  
23      this case if he could identify him? Yes or no?

24          A       Seriously, you mean? In --

25          Q       In any way, sir.

160

A I don't think -- Well, I think I may have said in a kidding manner, you know, It would be great if you could identify this guy. In a jesting manner. Because, obviously, he wasn't going to identify him. And we accepted that. There was no --

Q What?

A We accepted the fact that the man could not -- the Officer could not make an identification.

Q So in a joking way, you suggested to him -- Is that your testimony?

A Sir, as I would guess --

Q That it might have helped if he could identify him?

A Yes. I am only assuming, knowing my own personality, I probably would comment that way.

MR. LA ROSSA: I have nothing further.

Thank you.

THE COURT: Mr. Naftalis?

MR. NAFTALIS: No redirect.

THE COURT: Mr. Newman?

MR. NEWMAN: I am sorry, sir. I have nothing.

THE COURT: All right, you may step down.

(Witness excused.)

THE COURT: Do you want to recall Mr. DiPalma?



5 1 161 MR. NAFTALIS: Your Honor, that's going to take  
2 a fairly substantial --

3 THE COURT: I understand. But I would like to  
4 sit until 1:00.

5 MR. NAFTALIS: I am sorry.

6 THE COURT: I would like to sit until 1:00 o'clock  
7 if we could. If he is here.

8 MR. NAFTALIS: All right. I call Mr. DiPalma.

9 F R A N K D I P A L M A , having been previously duly  
10 Sworn, testified further as follows:

11 THE COURT: You are still under Oath.

12 MR. LA ROSSA: Are you finished with direct?

13 MR. NAFTALIS: Just one moment, please.

14 Your Honor, we will ask no further questions on  
15 direct examination. If we call him back for redirect --

16 THE COURT: All right. Cross.

17 CROSS EXAMINATION

18 BY MR. LA ROSSA:

19 Q Mr. DiPalma, my name is LaRossa. I represent  
20 Ciro Riccardi.

21 How old are you, Mr. DiPalma?

22 A 37.

23 Q Yesterday, you told us that for some three years  
24 you were a bookmaker; is that right?

25 A Three years ago.

Q No, I didn't ask you that, Mr. DiPalma. I said, yesterday you told us that for three years you were a bookmaker; is that right?

A Yes.

Q Is there any question about that?

A Yes.

Q In other words, you weren't a bookmaker for three years?

A Not for three years. For about a year and a half. Yes.

Q Only a year and a half?

A Yes.

Q Do you remember being asked questions and giving answers here yesterday?

A Yes.

Q Do you remember on direct testimony when Mr. Naftalis was asking you questions -- at page 16 -- that the Court, Judge Platt, asked you:

"I assume, When was this that you were once a bookmaker?

"The Witness: In 1970 to '72, or -- '72.

"The Court: 1970 to '72?

"The Witness: Yes.

"Question: Three years?



"The Witness: Yes."

Did you give those answers to those questions to Judge Platt when he was asking you questions yesterday?

A If I answered that question, "Yes," then it was, Yes.

Q So now it is three years?

A I am not sure. It's been three years since the case. I've forgot a lot of things by then, too. I was a little nervous yesterday, too.

Q Were you a bookmaker in 1972?

A Yes.

Q Were you a bookmaker in 1971?

A Yes, sir.

Q Were you a bookmaker in 1970?

A No, sir.

Q You are absolutely sure?

A Yes, sir.

Q So now it's only two years. And when you said three years yesterday, you were a little nervous, and that was a mistake; is that right?

A Yes, sir.

Q When was the first time you began activities as a bookmaker?

MR. NAFTALIS. Objection, your Honor.

THE COURT: I will allow it.

THE WITNESS: It was in the summer in 1970.

Q The summer of 1970?

A Yes. '72. I don't know dates, and I forget.

And once again --

Q Give us your best recollection. Was it the summer of 1970?

A I don't know.

Q Was it the summer of 1971?

A I am not sure. It's hard for me to answer that.

Q Well, a moment ago you told us that you absolutely wasn't a bookmaker in 1970; is that right?

A Because I wasn't sure. Like I am not sure right now.

Q Well, let's work backwards, if I could. Okay. When was the last time you acted as a bookmaker?

A I would have to believe, in 1972. I have to believe that.

Q When?

A It had to be early in the year.

Q What do you mean by early in the year?

A January, February. Around that time.

Q Not May?

A I am not sure about May. It could have been May.



Q Didn't you tell us in May, 1972, you went to see **Ciro Riccardi**?

A Yes, sir.

Q Were you a bookmaker then?

A Yes, sir.

Q So now you know it's May, right?

A Must have been May.

Q Were you a bookmaker in June?

A Yes, sir.

Q Were you a bookmaker in July?

A Yes, sir.

Q So you were a bookmaker at the same time, were you not, that you were down with the Kings County District Attorney's office, right?

A No, sir.

Q Well, weren't you there in June, 1972?

A Sir, I was down -- When I went to the District Attorney's office, and prior to that, I can recall this. I was not a bookmaker at the time.

Q Now, you know you weren't a bookmaker.

A At that date. I was not a bookmaker the day I went down to the District Attorney's office.

Q Were you a bookmaker in May when you went to see **Ciro Riccardi**?

1 A I could have been.

2 Q I just asked you a few moments ago, and you said,

3 "Yes."

4 A Because I am telling you I am not sure.

5 Q Can you tell me one day, one month, one year  
6 when you are sure you were a bookmaker?

7 A No, I couldn't do that.

8 Q What happened to the books that you kept when  
9 you were a bookmaker?

10 A I had no books.

11 Q What happened to the slips that you wrote the  
12 bets down?

13 A Ripped them up.

14 Q Did you have any slips in your possession in  
15 June, 1972?

16 A I don't know.

17 Q Did you destroy them before you went to the Kings  
18 County District Attorney's office?

19 A I told you, when I went to the District Attorney's  
20 office, I was not a bookmaker.

21 Q Did you begin as a bookmaker again some time  
22 after you went to the Kings County District Attorney's office?

23 A No, sir.

24 Q Did you tell them in June, 1972, when you went to  
25



2 the District Attorney's office, that you had been a bookmaker?

3 A No, sir.

4 Q Is there any question about 1971 being the year  
5 when you were active as a bookmaker?

6 A In what year would that be? I don't know. What  
7 do you mean, "active as a bookmaker"?

8 Q Were you a bookmaker? I am just trying to get  
9 a time sequence.

10 A I am trying to say, counselor, I can't give you  
11 time. If I could give you time, I would. But I can't. Just  
12 like I can't give a time now for three years. It is a hard  
13 thing to think, and a hard thing to remember. I can't remember.  
14 And I hate to say -- give an answer that might be completely  
15 out of order. That's why I am telling you maybe. And that's  
16 why I am telling you it could have been. Because I am not sure.

17 Q Let me ask you a question.

18 A Yes.

19 Q Do you remember the day that they hooked the  
20 tape recorder up to you?

21 A I don't remember the date.

22 Q Do you remember the day that it happened?

23 A The day?

24 Q Not the date. The day. Do you remember it hap-  
25 pening?

A Yes, I remember it happening.

Q Do you remember that they put this machine on your -- you described, I think, your lower chest?

A Yes, I can remember.

Q Do you remember going to Avenue X?

A Yes, sir.

Q Do you remember stating that you had a conversation there?

A Yes.

Q Then you walked from there, from Avenue X, to another location; is that right?

A Yes, sir.

Q How long did that take?

A A few minutes, I guess.

Q Five minutes, ten minutes?

A I don't know.

Q Twenty?

A A few minutes, I guess.

Q Did you walk down one street, or a number of streets?

A A number of streets.

Q Did you talk to Agent Ruffels over the machine when you were walking?

A I could have been.



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Q Did you?

A I think I did.

Q Is there any question in your mind that you did?

A I don't know if I was talking to Ruffels.

Q You were talking to whoever was listening to you, in other words?

A Whoever was listening.

Q Did they talk to you?

A No, sir.

Q Tell us what you said in that machine when you were walking those blocks.

A I think I was telling them I was passing certain locations.

Q Anything else?

A Not that I can remember.

Q Did you say anything about the man you had met on Avenue X, who you identified as the gentleman on the right?

A I think I did.

Q Have you heard the tape?

A I heard it.

Q All the things that you said in that recorder from the time you left Avenue X until the time that you met Mr. Riccardi -- Withdraw the question.

Have you heard this recording?

1 A I did hear the recording, yes.

2 Q You didn't hear any of those comments, did you?  
3 The comments you made in that machine to whoever was listening?  
4 Did you hear them when you heard the tape again?  
5

6 A I am not sure if I did.

7 Q Stop and think about it. It's very important.

8 A I'm not sure if I did. I'm not sure if I did.

9 Q But is there any question in your mind that you  
10 did say things in that recording machine as you walked down  
11 those streets?

12 A Yes. I told you I did. I mentioned locations.

13 Q You mentioned something about the gentleman on  
14 the right?

15 A I might have.

16 Q Did you talk about anything else other than  
17 locations or the gentleman on the right in that recording  
18 machine? I am talking about the interval of time after you  
19 left Avenue X until the time you met Mr. Riccardi?

20 A I don't remember. Honestly, I don't remember.

21 Q Mr. DiPalma, let's go back to the very first day  
22 you were ever engaged as a bookmaker. And I know you can't  
23 remember the date, the year, the month, or anything else. Did  
24 you start being a bookmaker yourself?

25 A No.



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Q You had a partner?

A Yes.

Q Who was that?

MR. NAFTALIS: Your Honor, that's irrelevant.

THE COURT: Overruled.

Q Who was your partner?

A Your Honor, excuse me. Could I think this over?  
I didn't have a partner.

THE COURT: Did you have a partner?

THE WITNESS: I didn't have a partner.

Q You mean you were lying to us?

A No. I had to think it over. When you say partner,  
do you mean a person that is a partner on the money itself?  
In other words, money -- A partner who puts in half, and the  
other puts in the other half? Or a partner that takes it all  
for himself?

Q You tell me what you meant when you said, "Yes,  
I had a partner."

A No, I didn't have a partner. I did it on my  
own.

Q Tell me what you assumed I meant by a partner.

A I thought you meant having -- In other words,  
if there was anybody there. Somebody there would pick it up  
for you.

172

Di Palma-cross

Q But you were always by yourself in the business?

A I was usually by myself.

Q Usually or always?

A I wasn't the only bookmaker in that particular location.

Q The very first day that you began as a bookmaker, where was it?

A It was in the inspection shop.

Q Where is that?

A That's the location closer to the tracks.  
Track -- I think 31.

Q Is that within the Transit Authority?

A Yes, sir.

Q Now, you certainly didn't hand out pamphlets saying that you were a bookmaker?

A Everybody -- well, everybody knows who did what. And I didn't have to.

Q You just announced to certain people that you were ready to become a bookmaker; is that right?

A I announced to certain people that anybody who wants to make a bet, that I would take it.

Q I assume at that time you were quite proficient in odds?



1 A No, sir, I wasn't.

2 Q Weren't proficient?

3 A No.

4 Q Did you know what a hedge bet was at that time?

5 A I knew what a hedge bet was. Yes. But when  
6 you say odds, you're talking about how you bet six to one,  
7 five to one, things like that. No, as far as mathematically,  
8 I am terrible. Very bad. That's why I wasn't a good book-  
9 maker.  
10

11 Q Did you know when something was at proper odds  
12 or not?

13 A Pardon me?

14 Q Did you know when something was proper or not  
15 as far as odds were concerned?

16 A I didn't know. I couldn't tell.

17 Q Let me ask you this. How did you get the odds  
18 on the Knickerbockers on a particular night?

19 A I didn't take odds on the Knicks.

20 Q Never?

21 A No.

22 Q Who ran your numbers?

23 A I never ran numbers.

24 Q You never took a number?

25 A I took a number, but I -- but I never ran a

number. I took a number maybe once in a while. I could have took a number, but I never take numbers as a bookmaker would take numbers.

Q You took numbers from anybody that came to give them to you?

A No, sir. Because I only had a \$200 bank in horses. If you call that a bookmaker --

Q Well, Mr. DiPalma, tell me this: When you got the bets, you told us yesterday that they were hedged into OTB or at the track.

A Racetrack.

Q Is that right?

A Mostly down the racetrack.

Q On a given day, how many bets would you pick up?

A I couldn't say.

Q Tell me what a big day was.

A \$130, \$140.

Q Would that represent seventy different bets or sixty different bets?

A Maybe.

Q Of that 130, on an average how much would you hedge at the racetrack or at OTB? All of it?

A No.



Q How much?

A It varies.

Q Tell me.

A According to the type of the horse.

Q Tell me what the average would be. Were there ever occasions when you did n't hedge any of the 130?

A Yes. Could have been a few occasions like that.

Q Were there ever occasions when you hedged the whole 130?

A No.

Q Most of it?

A If it was a 50-to-1 shot, yes.

Q Tell me this, when you took a \$2 bet from someone at the premises, and you went down to the racetrack and get that \$2, there was no way you could make any money on that \$2, was there?

A If it was a two if four bet.

Q Tell us, please, how that would work.

A If it was a two if four--in other words, if the first horse wins, the \$2 stays on that horse, and if on four dollars on the next horse. It becomes \$6 on each horse that wins.

Q But if you kept placing it out the window, you make no money; isn't that right?

1  
2 A You can make money. If you -- if you take  
3 the winning money and put it all onto place and show, that  
4 horse comes in second, all he gets is \$2 on the first horse.

5 Q Mr. DiPalma, I don't seem to understand that.  
6 What I am saying, if I bet \$2 with you --

7 A Yes.

8 Q -- on a horse that was running at six to one --

9 A Yes.

10 Q --and you went to Aqueduct --

11 A Yes.

12 Q -- and took my \$2 and bought a ticket for it  
13 and the horse won, wouldn't you have to give me the money  
14 that you got at the window?

15 A Yes. I -- but I didn't receive many \$2 straight  
16 bets. I received mostly two if four bets and one if two  
17 bets.

18 Q Tell me and this jury how you make money from  
19 a third party when you take the money, put it in the window  
20 at Aqueduct, take the winnings and give it back to the  
21 customer. Tell us what you earned.

22 A What I earn?

23 Q Yes.

24 A I earned a day at the track. That's all.

25 Q How?



6  
1  
2 A How? By -- I love to gamble.

3 Q You mean that they were giving you the oppor-  
4 tunity to place these bets, so it was kind of an excuse for  
5 you to go out to the track?

6 A I said to you before -- I said it yesterday.  
7 I was a degenerate gambler and I had to go to the truck.  
8 I just love to go. It didn't matter what they gave me. I  
9 went down there. And if I like the horse that this parti-  
10 cular person bet, I would bet it. And if it paid \$13, it  
11 paid \$13. It didn't matter to me.

12 Q Does that make any sense from a bookmaking  
13 parlance, Mr. DiPalma? Tell the jury, did --

14 A I was -- really, when -- you're talking  
15 about a bookmaker. I am not a bookmaker. I am not a book-  
16 maker that is making \$50,000 a year. You're talking to a  
17 person who wasn't a good bookmaker in the sense that all I  
18 had -- the most was a few hundred dollars bank.

19 Q How much did you make in 1970 as a bookmaker?

20 A 1970?

21 Q Yes.

22 A I was just -- I -- like I said, dates, I don't  
23 know. But I can recall this. I was put into the TA 3/16/70.  
24 I was not a bookmaker 3/16/70 when I came into the TA.

25 Q Tell me how much you earned the very first

year that you were a bookmaker.

A I made nothing. Like I said before, I made nothing. And I said before to you there were other people in that place that did what they had to do. Whatever they did was their business. All I know is I did not make money in that place as a bookmaker.

Q You earned no money the first year?

A No. I made nothing.

Q Did you lose money?

A Lose? Yes, sir, I did.

Q How about the second year?

A Yes, sir. I told you I -- like I said before, and once again I will repeat myself. I am not sure of dates. I am not sure of times. I'm trying to be as honest as I can. But I don't want anybody to think I'm a \$50,000 bookmaker when am not. And once again I will say it to the Court and to everybody in here that I didn't make money as a bookmaker.

Q You lost?

A I made money on my own when I bet on -- myself. When I went to the track I didn't bet \$2. I was a \$20 and \$30 better for myself.

Q Did you ever hit a big race?

A Did I ever hit a big race? Once.

Q How much?



A \$60 horse by the name of Samantha at Aqueduct.

Q When was that?

A About a year and a half, maybe two years ago.

Once again, if I tell you a year and a half I could be wrong.

If I tell you two years, I could be wrong, too.

Q Let me ask you this, Mr. DiPalma. Did the FBI or the assistant U.S. attorney ask you these questions like I am asking you?

A Sir, I told the FBI --

Q I asked you a question.

A Yes, sir.

Q Did they ask you questions?

A The FBI did.

Q Did Mr. Ruffels?

A Mr. --

Q Did Mr. Ruffels ask you questions?

A Yes, sir, he sure did.

Q Did he ask you whether you were a bookmaker?

A Yes, sir.

Q Did you tell him the truth like you are telling

us?

A I did so, sir.

Q Suppose I told you that this morning Mr. Ruffels testified that when he asked you these questions you told him

that you never kept any of the bets; you always hedged them all off at Aqueduct or OTB; and, therefore, you never violated any laws? Did you tell that to Agent Ruffels?

MR. NAFTALIS: Objection, your Honor.

THE COURT: I will allow him to put a hypothetical to him.

Q Did you tell Agent Ruffels that?

A All I know is, I told Agent -- once again, I got to just say the same thing, your Honor. I can't be sure but three years ago when any person could say exactly in sentences and words. It's impossible for me to be so precise on words. I would be a genius. I can't remember a lot of things, your Honor. This is three years ago. And I am sorry. I am sorry. I can't remember.

Q Did you tell him, Mr. DiPalma, that -- did you tell Agent Ruffels that you never kept a bet yourself?

A I -- I don't know. I'm not sure.

Q Well, if you did tell him that, would it have been a lie?

A All I told him, I was a bookmaker holding bets or -- no, not -- I don't know if I told him that. If I did, I did. If I didn't, I didn't. I don't remember that.

Q Mr. DiPalma, do you know the difference between



1  
2 a bookmaker and an accommodation bettor?

3 A No, sir, I don't.

4 Q Do you know it's against the law to be a  
5 bookmaker?

6 A Yes, sir, I do.

7 Q Did you think you were violating the law in  
8 1970 or '71 or 1972 or whenever this was?

9 A All I did --

10 Q Did you? Did you think you were violating  
11 the law?

12 A OTB was there. And I couldn't see it being  
13 a violation if I took most of my bets at OTB and made my  
14 bets at OTB, and all I got out of the deal was absolutely  
15 nothing. It was mostly for a favor for these guys.

16 Q Have you ever been questioned by anyone other  
17 than Agent Ruffels as to whether you were a bookmaker?

18 A No. I wasn't questioned by anybody other  
19 than Mr. Ruffels.

20 Q Didn't Mr. Naftalis call you in and ask you  
21 questions about this? Mr. Naftalis?

22 A Mr. Naftalis might have. But I thought you  
23 meant another law-enforcement officer.

24 Q Didn't he just a few moments ago call you in?

25 A Yes.

1  
2 Q Did he ask you, had you ever taken bets from  
3 from Ciro Riccardi?

4 A Did he ask me? Yes, he did.

5 Q That's not the first time Mr. Naftalis has  
6 called you in and asked you about something you did in the  
7 past, is it?

8 MR. NAFTALIS: Objection. There is no  
9 evidence as to that in this trial.

10 Q Is that the first --

11 MR. NAFTALIS: Your Honor --

12 MR. LA ROSSA: I accept the objection. I  
13 will withdraw it.

14 THE COURT: Wait a minute. This is cross-  
15 examination. He is entitled to ask these kinds  
16 of questions.

17 I will allow it.

18  
19 (Continued on next page.)  
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DiPalma-cross/LaRossa

MR. NAFTALIS: Your Honor, I would kindly ask that Mr. LaRossa, though, keep his voice down. He's obviously harrassing the witness.

THE COURT: Mr. LaRossa, stand behind the lectern and not emulate Mr. Newman. I don't think it's necessary.

MR. LA ROSSA: Judge, I have been doing this for so long I really don't emulate anybody.

Q If I am harrassing you, just put up your hand. I am sorry. It is the last thing in the world I would like to do?

A No, you're not harrassing me.

Q Thank you.

Is that the first time that Mr. Naftalis called you in to his office and asked you to tell him something about you that happened in the past?

A It might have been, counselor. It might have been.

Q Think, please. Sit and think.

A I can't think anymore. I can't. I am explaining to you the truth. I cannot think anymore. I can't. A lot of things happened to me in three years. I cannot think.

Q You're really not sure, Mr. DiPalma, of what

DiPalma-cross/LaRossa

happened in the past; is that right?

A I am sure of only what I can remember that hurt me. That's what I am sure of. But other than that, I am not sure of those other things. I am not.

Q Did you file a tax return in 1971?

A Most likely I did. My wife handles that. I don't.

Q Did you put down that you were a bookmaker?

A My wife handles that. Again, I don't.

Q I didn't ask you that.

A Oh, no. I guess not.

Q Did Mr. Naftalis ask you if you put down on your tax return that you were a bookmaker?

A No sir, he did not.

Q Did he ask you to see your tax return for 1971?

A If he would, he would have been shocked.

Q Did he ask to see your tax return for 1971?

A Well, no, he didn't.

Q Did you file a tax return for 1972?

A Did I? I sure did.

Q Did you put down that you were a bookmaker?

A No sir, I did not.

Q Did you report the gambling earnings?

A What earnings?



## DiPalma-cross/LaRossa

1  
2 Q Did you report any winnings that you made?

3 A How could I? I never won. How could I put  
4 down anything? I told you I was a born loser.

5 Q So you never won once?

6 A No, I won. Yes. Yes, I won a few times. But  
7 when you mean --

8 Q How many times have you won in the last three --

9 MR. NAFTALIS: Your Honor, would you instruct  
10 Mr. LaRossa to let Mr. DiPalma answer the question.  
11 He keeps cutting him off.

12 MR. LA ROSSA: If I'm harrassing him, please  
13 tell me and I will stop. That's not my style, Judge.

14 MR. NAFTALIS: I object to this speech.

15 THE COURT: All right. I think we have had  
16 enough. We will take a luncheon recess.

17 Be back, ladies and gentlemen, at 2:15. Don't  
18 discuss the case in the interim.

19 MR. LA ROSSA: May I ask you to stay for  
20 just a moment.

21 THE COURT: Yes. You may go. Don't discuss  
22 the case with anybody. Be back promptly.

23 (Whereupon, the jury retired from the courtroom.)

24 (Witness excused.)

25 MR. NAFTALIS: Your Honor, if I may --

1 MR. LA ROSSA: May I at this time ask for a  
2 direction --

3 May the witness wait.

4 THE COURT: Wait.

5 MR. LA ROSSA: That my cross-examination be  
6 completed without interruption in that the witness  
7 should not discuss his testimony with any Federal  
8 Agents or Assistant US Attorney.

9 THE COURT: No. You are not entitled to that  
10 anymore than they are not entitled to -- not to discuss  
11 the case with your client.

12 MR. LA ROSSA: I think there is a big difference.  
13 And a lot of judges have respected it.

14 THE COURT: There's no difference at all.  
15 There's no reason why the US Attorney can't talk to  
16 any witness of theirs. That is the most outrageous  
17 idea I have ever heard of.

18 MR. LA ROSSA: A lot of judges comply.

19 THE COURT: For ten years I have tried cases  
20 and everytime I have a witness I'd go out to lunch  
21 with him and I would discuss the case with him. I  
22 know of nothing wrong with it, with anybody discussing  
23 the case with a witness.

24 MR. LA ROSSA: Of course not. I am talking  
25 about during cross-examination. That's all.



UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,  
*against*

RONALD GIGLIOTTI,

Defendant-Appellant.

Index No.

Affidavit of Personal Service

STATE OF NEW YORK, COUNTY OF

NEW YORK

ss.:

I, **James A. Steele** being duly sworn,  
depose and say that deponent is not a party to the action, is over 18 years of age and resides at  
310 W. 146th St., New York, N.Y.

That on the 24th day of October 1975 at 225 Cadman Plaza, Brooklyn, N.Y.

deponent served the annexed Appellant Brief *Appellant* upon

the Attorney **David G. Trager** in this action by delivering a true copy thereof to said individual personally. Deponent knew the person so served to be the person mentioned and described in said papers as the herein,

Sworn to before me, this 24th  
day of October 1975

*Robert T. Brin*

*James A. Steele*  
JAMES A. STEELE

ROBERT T. BRIN  
NOTARY PUBLIC, State of New York  
No. 31-0418950  
Qualified in New York County  
Commission Expires March 31, 1977

